



Montana Legislative History

Chapter: 553 Session L: 2003

Checklist of Bill History

Bill Number:	House / Senate	History and Final Status Sheet	X
		Introduced Bill	X
		Fiscal Note	n/a
		Third Reading Bill	X
		Final Version of Bill	X

House

Committee: Fish,
Wildlife and Parks

Hearing Date(s):
Feb. 2, 2003

Committee Report:

Senate

Committee: Finance and Claims

Hearing Date(s): March 7, 2003

Committee Report:

Conference Committee

Hearing Date(s):

Conference Committee Report:

n/a

Compiler Notes

Compiled by:

SMG

Date: 01/16/24

Notes:

Bill Draft Number: LC0499

Bill Type - Number: HB 42

Short Title: Require wildlife management in sustainable manner

Primary Sponsor: Debby Barrett (R) HD 34

Chapter Number: 553

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 76

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/05/2003			
(H) Signed by Governor	05/05/2003			
(H) Transmitted to Governor	05/02/2003			
(S) Signed by President	05/01/2003			
(H) Signed by Speaker	05/01/2003			
(H) Returned from Enrolling	04/30/2003			
(C) Printed - New Version Available	04/29/2003			
(C) Printed - New Version Available	04/29/2003			
(C) Printed - New Version Available	04/28/2003			
(H) Sent to Enrolling	04/26/2003			
(H) 3rd Reading Governor's Proposed Amendments Adopted	04/26/2003	59	40	
(H) 2nd Reading Governor's Proposed Amendments Adopted	04/26/2003	68	31	
(S) Returned to House Concurred in Governor's Proposed Amendments	04/26/2003			
(S) 3rd Reading Governor's Proposed Amendments Adopted	04/26/2003	42	7	
(H) Scheduled for 3rd Reading	04/26/2003			
(S) Scheduled for 3rd Reading	04/26/2003			
(H) Scheduled for 2nd Reading	04/26/2003			
(S) 2nd Reading Governor's Proposed Amendments Adopted on Voice Vote	04/25/2003	48	0	
(C) Printed - New Version Available	04/25/2003			
(C) Printed - New Version Available	04/25/2003			
(H) Returned with Governor's Proposed Amendments	04/25/2003			
(H) Transmitted to Governor	04/25/2003			
(S) Signed by President	04/25/2003			
(H) Signed by Speaker	04/25/2003			
(H) Returned from Enrolling	04/25/2003			
(H) Sent to Enrolling	04/25/2003			
(S) Returned to House with Amendments	04/25/2003			
(S) 3rd Reading Concurred	04/25/2003	42	5	

(S) On Motion Rules Suspended	04/25/2003	43	2	
(S) 2nd Reading Concurred as Amended on Voice Vote	04/25/2003	42	4	
(S) 2nd Reading Motion to Amend Carried on Voice Vote	04/25/2003	46	0	
(H) Motion Carried	04/25/2003	52	46	
(S) Motion Carried	04/24/2003	39	11	
(H) Motion Failed	04/23/2003	55	44	
(S) Returned to House with Amendments	04/15/2003			
(S) 3rd Reading Concurred	04/15/2003	45	5	
(H) Revised Fiscal Note Received	04/15/2003			
(S) Scheduled for 3rd Reading	04/15/2003			
(S) 2nd Reading Concurred on Voice Vote	04/14/2003	48	2	
(S) Scheduled for 2nd Reading	04/14/2003			
(S) Scheduled for 2nd Reading	04/12/2003			
(C) Printed - New Version Available	04/11/2003			
(S) Committee Report--Bill Concurred as Amended	04/11/2003			(S) Finance and Claims
(S) Committee Executive Action--Bill Concurred as Amended	04/11/2003	17	2	(S) Finance and Claims
(S) Hearing	03/07/2003			(S) Finance and Claims
(S) Referred to Committee	02/26/2003			(S) Finance and Claims
(S) First Reading	02/26/2003			
(H) Transmitted to Senate	02/24/2003			
(H) 3rd Reading Passed	02/24/2003	63	35	
(H) Scheduled for 3rd Reading	02/24/2003			
(H) 2nd Reading Passed	02/22/2003	58	42	
(H) Scheduled for 2nd Reading	02/22/2003			
(C) Printed - New Version Available	02/19/2003			
(H) Committee Report--Bill Passed as Amended	02/19/2003			(H) Fish, Wildlife and Parks
(H) Committee Executive Action--Bill Passed as Amended	02/19/2003	11	9	(H) Fish, Wildlife and Parks
(H) Hearing	02/04/2003			(H) Fish, Wildlife and Parks
(H) Fiscal Note Printed	01/09/2003			
(H) Fiscal Note Received	01/07/2003			
(H) First Reading	01/06/2003			
(H) Referred to Committee	12/16/2002			(H) Fish, Wildlife and Parks
(H) Fiscal Note Requested	12/11/2002			
(C) Introduced Bill Text Available Electronically	12/03/2002			
(H) Introduced	12/03/2002			
(C) Pre-Introduction Letter Sent	11/25/2002			
(C) Draft in Assembly/Executive Director Review	11/24/2002			
(C) Draft in Final Drafter Review	11/19/2002			

(C) Bill Draft Text Available Electronically	11/18/2002
(C) Draft in Input/Proofing	11/18/2002
(C) Draft to Drafter - Edit Review [SAB]	11/18/2002
(C) Draft in Edit	11/18/2002
(C) Draft in Legal Review	11/14/2002
(C) Draft to Requester for Review	11/12/2002
(C) Draft Back for Requester Changes	11/12/2002
(C) Draft to Requester for Review	11/08/2002
(C) Fiscal Note Probable	09/13/2002
(C) Draft Request Received	09/13/2002

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Olson	Alan
Drafter	Lee Evans	Krista
Primary Sponsor	Barrett	Debby

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Appropriations (see also: State Finance)	Appropriation	Simple	APP
Fish and Wildlife		Simple	FISH

Additional Bill Information

Fiscal Note Probable: Yes

Preintroduction Required: N

Session Law Ch. Number: 553

DEADLINE

Category: Appropriation Bills

Transmittal Date: 03/29/2003

Return (with 2nd house amendments) Date: 04/14/2003

Section Effective Dates

Section(s) **Effective Date** **Date Qualified**

All Sections 05-MAY-03

HOUSE BILL NO. 42

INTRODUCED BY BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ~~ENSURE~~ MANAGE WITH THE OBJECTIVE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE ~~AND A STATUTORY APPROPRIATION AND A STATUTORY APPROPRIATION~~; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED ~~FOR RESIDENTS~~ FOR RESIDENTS; AMENDING SECTIONS ~~17-7-502, 17-7-502, 87-1-201, 87-1-268, 87-1-268, 87-1-301, 87-2-104, 87-2-501, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512,~~ AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the universal mission of all wildlife management agencies includes an implied objective to manage wildlife within acceptable levels to ensure that wildlife does not become a nuisance or a hazard; and

WHEREAS, for over 70 years wildlife populations in Montana have continued to increase and the damage to private land as a result of this increased wildlife population has increased dramatically; and

WHEREAS, the Department of Fish, Wildlife, and Parks has historically included private land as part of the habitat equation in determining how much habitat is available for wildlife use in Montana; and

WHEREAS, the amount of habitat that is available for use by wildlife should be recalculated to accurately reflect the amount of habitat that is available without causing game damage to agricultural crops; and

~~WHEREAS, when determining wildlife habitat, private land acreage should be excluded from the equation and public land should be considered based on a multiple use policy; and~~

WHEREAS, it is time for the Department of Fish, Wildlife, and Parks to use the tools that it has had available for many years, along with new tools to be implemented through this legislation, to manage Montana's wildlife populations in a sustainable manner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1
2 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 5] is to require the
3 commission, with advice of the department, to manage elk, deer, and antelope populations in a sustainable
4 manner that keeps animal populations at a number that does not adversely affect ~~private property owners~~
5 MONTANA LAND.

6
7 NEW SECTION. **Section 2. Calculation of available habitat.** When determining the total acreage that
8 serves as habitat for elk, deer, and antelope, the commission shall consider ~~only~~ public land and private land
9 ~~that is under contract with the department~~ for wildlife management or habitat enhancement purposes. This
10 calculation must be reconsidered and provided to the public by October 1 of each odd-numbered year.

11
12 NEW SECTION. **Section 3. Viable elk, deer, and antelope populations based on habitat acreage**
13 **-- reduction of populations as necessary.** (1) Based on the habitat acreage that is determined pursuant to
14 [section 2], the commission shall determine the appropriate elk, deer, and antelope numbers that can be viably
15 sustained. THE DEPARTMENT SHALL CONSIDER THE SPECIFIC CONCERNS OF PRIVATE LANDOWNERS WHEN DETERMINING
16 SUSTAINABLE NUMBERS PURSUANT TO THIS SECTION.

17 (2) Once the sustainable population numbers are determined as provided in subsection (1), the
18 department shall implement, through ~~the rulemaking process and other applicable programs, a program~~ EXISTING
19 WILDLIFE MANAGEMENT PROGRAMS, NECESSARY ACTIONS to ensure WITH THE OBJECTIVE that the population of elk,
20 deer, and antelope remains at or below the sustainable population. ~~The program implemented by the~~
21 ~~department~~ PROGRAMS may include but ~~is~~ ARE not limited to:

- 22 (a) liberalized harvests;
23 (b) game damage hunts;
24 (c) landowner permits; OR
25 ~~—— (d) herd dispersal; or~~
26 ~~(e)~~(D) animal relocation.

27 (3) The department shall:

28 (a) ~~ensure~~ MANAGE WITH THE OBJECTIVE that populations of elk, deer, and antelope are at or below the
29 sustainable population number by January 1, 2009; and

30 (b) evaluate the elk, deer, and antelope populations on an annual basis and provide that information

1 to the public.

3 **NEW SECTION. Section 4. Sustainable elk, deer, and antelope populations program -- funding.**

4 The department shall use money from the fish and game fund, as described in 87-1-601(3), to implement
5 [sections 1 through 5]. ~~That portion of the money in the fund that the department determines is necessary for~~
6 ~~the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502. THAT~~
7 ~~PORTION OF THE MONEY IN THE FUND THAT THE DEPARTMENT DETERMINES IS NECESSARY FOR THE PURPOSE OF~~
8 ~~IMPLEMENTING [SECTIONS 1 THROUGH 5] IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502.~~

10 **NEW SECTION. Section 5. Rulemaking.** (1) The department and the commission ~~may adopt~~ SHALL
11 ADJUST EXISTING WILDLIFE MANAGEMENT rules AND PLANS ~~that are necessary~~ to implement [sections 1 through 5].

12 (2) ~~In adopting~~ THE DEPARTMENT AND THE COMMISSION MAY ADOPT rules for determining sustainability; ~~the~~
13 THE commission shall consider average carrying capacity and use generally accepted animal unit factors for
14 each species in each commission ~~district~~ REGION.

15 (3) ANY RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (2) MUST BE ADOPTED IN A TIMELY
16 MANNER.

18 ~~Section 6. Section 17-7-502, MCA, is amended to read:~~

19 ~~"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory~~
20 ~~appropriation is an appropriation made by permanent law that authorizes spending by a state agency without~~
21 ~~the need for a biennial legislative appropriation or budget amendment.~~

22 ~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both~~
23 ~~of the following provisions:~~

24 ~~(a) The law containing the statutory authority must be listed in subsection (3).~~

25 ~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory~~
26 ~~appropriation is made as provided in this section.~~

27 ~~(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;~~
28 ~~5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;~~
29 ~~15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241;~~
30 ~~17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;~~

~~19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.~~

~~———— (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"~~

~~———— **SECTION 6. SECTION 17-7-502, MCA, IS AMENDED TO READ:**~~

~~———— **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~———— (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~———— (a) The law containing the statutory authority must be listed in subsection (3).~~

~~———— (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~———— (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;~~

~~19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.~~

~~———— (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"~~

Section 6. Section 87-1-201, MCA, is amended to read:

"87-1-201. (Temporary) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or

1 hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or
2 received by the department from any other sources is appropriated to and under control of the department.

3 (4) The department may discharge any appointee or employee of the department for cause at any time.

4 (5) The department may dispose of all property owned by the state used for the protection, preservation,
5 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no
6 further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be
7 credited to the fish and game account in the state special revenue fund.

8 (6) The department may not issue permits to carry firearms within this state to anyone except regularly
9 appointed officers or wardens.

10 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations
11 not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

12 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation
13 of bear within or outside of the state.

14 (9) (a) The department shall implement programs that:

15 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing
16 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

17 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under
18 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the
19 maintenance or recovery of those species; and

20 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in
21 [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as
22 provided in [section 3].

23 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
24 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or
25 recovery of those species with the social and economic impacts of species maintenance or recovery.

26 (c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a
27 privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates
28 March 1, 2006--sec. 6, Ch. 544, L. 1999.)

29 **87-1-201. (Effective March 1, 2006) Powers and duties.** (1) The department shall supervise all the
30 wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state.

1 It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts
2 of this state for the enforcement of the fish and game laws and the rules adopted by the department.

3 (2) The department shall enforce all the laws of the state respecting the protection, preservation,
4 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

5 (3) The department has the exclusive power to spend for the protection, preservation, management,
6 and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or
7 acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money
8 collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or
9 hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or
10 received by the department from any other sources is appropriated to and under control of the department.

11 (4) The department may discharge any appointee or employee of the department for cause at any time.

12 (5) The department may dispose of all property owned by the state used for the protection, preservation,
13 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no
14 further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be
15 credited to the fish and game account in the state special revenue fund.

16 (6) The department may not issue permits to carry firearms within this state to anyone except regularly
17 appointed officers or wardens.

18 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations
19 not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

20 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation
21 of bear within or outside of the state.

22 (9) (a) The department shall implement programs that:

23 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing
24 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

25 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under
26 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the
27 maintenance or recovery of those species; and

28 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in
29 [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as
30 provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing."

~~Section 8. Section 87-1-268, MCA, is amended to read:~~

~~"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. Subject to the management provisions provided in [sections 1 through 5], the fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"~~

~~SECTION 8. SECTION 87-1-268, MCA, IS AMENDED TO READ:~~

~~"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. The Subject to the management provisions provided in [sections 1 through 5], the fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"~~

1 **Section 7.** Section 87-1-301, MCA, is amended to read:

2 **"87-1-301. (Temporary) Powers of commission.** (1) The commission:

3 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
4 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
5 of all other responsibilities of the department as provided by law;

6 (b) shall establish the hunting, fishing, and trapping rules of the department;

7 (c) shall establish the rules of the department governing the use of lands owned or controlled by the
8 department and waters under the jurisdiction of the department;

9 (d) must have the power within the department to establish wildlife refuges and bird and game
10 preserves;

11 (e) shall approve all acquisitions or transfers by the department of interests in land or water;

12 (f) shall review and approve the budget of the department prior to its transmittal to the budget office;
13 **and**

14 (g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but
15 less than \$5,000; and

16 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as
17 provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates
18 as provided in [section 3].

19 (2) The commission may adopt rules regarding the use and type of archery equipment that may be
20 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations
21 in archery equipment change.

22 (3) The commission may adopt rules regarding the establishment of special licenses or permits,
23 seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or
24 enhance hunting by Montana's youth and persons with disabilities.

25 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

26 (i) separate deer licenses from nonresident elk combination licenses;

27 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without
28 the deer tag;

29 (iii) condition the use of the deer licenses; and

30 (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders;

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope; ~~and~~

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; ~~and~~

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts in the administrative region designated by the department as region 1; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts in the administrative region designated by the department as region 1, which may include limiting the number of nonresident hound handler permits.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(Terminates April 30, 2004--sec. 3, Ch. 575, L. 2001.)

1 **87-1-301. (Effective May 1, 2004) Powers of commission.** (1) The commission:

2 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
3 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
4 of all other responsibilities of the department as provided by law;

5 (b) shall establish the hunting, fishing, and trapping rules of the department;

6 (c) shall establish the rules of the department governing the use of lands owned or controlled by the
7 department and waters under the jurisdiction of the department;

8 (d) must have the power within the department to establish wildlife refuges and bird and game
9 preserves;

10 (e) shall approve all acquisitions or transfers by the department of interests in land or water;

11 (f) shall review and approve the budget of the department prior to its transmittal to the budget office;
12 ~~and~~

13 (g) shall review and approve construction projects whose estimated cost is more than \$1,000 but less
14 than \$5,000; and

15 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as
16 provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates
17 as provided in [section 3].

18 (2) The commission may adopt rules regarding the use and type of archery equipment that may be
19 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations
20 in archery equipment change.

21 (3) The commission may adopt rules regarding the establishment of special licenses or permits,
22 seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or
23 enhance hunting by Montana's youth and persons with disabilities.

24 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

25 (i) separate deer licenses from nonresident elk combination licenses;

26 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without
27 the deer tag;

28 (iii) condition the use of the deer licenses; and

29 (iv) limit the number of licenses sold.

30 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary

1 and appropriate to regulate the harvest by nonresident big game combination license holders;
2 (i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope;
3 ~~and~~
4 (ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private
5 property; and
6 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections
7 1 through 5].

8 (5) The commission may adopt rules establishing license preference systems to distribute hunting
9 licenses and permits:

10 (a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant
11 who has been unsuccessful for a shorter period of time; and

12 (b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying
13 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined
14 by the commission."
15

16 **Section 8.** Section 87-2-104, MCA, is amended to read:

17 **"87-2-104. Number of licenses allowed -- fees.** (1) It is unlawful for any person to apply for, purchase,
18 or possess more than one license of any one class or more than one special license for any one species listed
19 in 87-2-701. This provision does not apply to Class B-4 licenses or to licenses issued under subsection (3) for
20 game management purposes. However, when more than one license is authorized by the commission, it is
21 unlawful to apply for, purchase, or possess more licenses than are authorized.

22 (2) The department may prescribe rules and regulations for the issuance or sale of a replacement
23 license in the event the original license is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

24 (3) When authorized by the commission for game management purposes, the department may issue
25 more than one Class A-3, Class A-4, Class A-5, Class A-7, Class B-7, Class B-8, ~~Class B-10, Class B-11, CLASS~~
26 B-10, CLASS B-11, or special antelope license to an applicant. An applicant for these game management licenses
27 is not at the time of application required to hold any license or permit of that class.

28 (4) The fee for any resident or nonresident license of any class issued under subsection (3) must be
29 set annually by the department and may not exceed the regular fee provided by law for that class or species."
30

1 **Section 9.** Section 87-2-501, MCA, is amended to read:

2 **"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7**
3 **resident and nonresident license requirements and preference.** (1) Except as otherwise provided in this
4 chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license
5 only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the
6 license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following
7 licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal
8 or animals authorized by the license held and to possess the carcasses of those game animals as authorized
9 by department rules:

10 (a) Class A-3, deer A tag, \$13;

11 (b) Class A-4, deer B tag, \$8;

12 (c) Class A-5, elk tag, \$16;

13 (d) Class A-6, black bear tag, \$15;

14 (e) Class A-7, antlerless elk tag, \$16.

15 (2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt
16 antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the
17 commission.

18 (b) Subject to the management provisions provided in [sections 1 through 5], a A person may not take
19 more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an
20 elk during the same license year with a Class A-5 license or nonresident elk tag. The use of Class A-7 antlerless
21 elk licenses does not preclude the department's use of special elk permits.

22 (c) Subject to the management provisions provided in [sections 1 through 5], a A nonresident shall hold
23 a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

24 (3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640
25 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7
26 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

27 (4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license
28 be issued to an immediate family member or a person employed by the landowner. A corporation owning
29 qualifying land under subsection (3) may designate one of its shareholders to receive the license.

30 (5) Subject to the management provisions provided in [sections 1 through 5], 15% Fifteen-percent of

the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

~~Section 12.~~ Section 87-2-504, MCA, is amended to read:

~~"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~(i) Class B-7, deer A tag, \$250;~~

~~(ii) Class B-8, deer B tag, \$75.~~

~~(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Subject to the management provisions provided in [sections 1 through 5], not Not more than 5,000 Class B-7 licenses may be sold in any license year.~~

~~(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)~~

~~87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~(i) Class B-7, deer A tag, \$250;~~

1 ~~—— (ii) Class B-8, deer B tag, \$75.~~

2 ~~—— (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals~~
3 ~~authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

4 ~~—— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be~~
5 ~~assigned for use in a specific administrative region or regions or a portion of a specific administrative region or~~
6 ~~regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If~~
7 ~~purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state,~~
8 ~~except as provided in 87-2-512(1)(d).~~

9 ~~—— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by~~
10 ~~hunting districts, portions of a hunting district, groups of districts, or administrative regions."~~

11
12 ~~—— **Section 13.** Section 87-2-505, MCA, is amended to read:~~

13 ~~—— **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as~~
14 ~~otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years~~
15 ~~of age or older or who will turn 12 years old before or during the season for which the license is issued may,~~
16 ~~upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or~~
17 ~~upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved~~
18 ~~pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject~~
19 ~~to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office,~~
20 ~~Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is~~
21 ~~12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This~~
22 ~~license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management~~
23 ~~provisions provided in [sections 1 through 5], not Not more than 11,500 unreserved Class B-10 licenses may~~
24 ~~be sold in any 1 license year.~~

25 ~~—— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big~~
26 ~~game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk~~
27 ~~permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch.~~
28 ~~544, L. 1999; sec. 9, Ch. 216, L. 2001.)~~

29 ~~—— **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.** (1)~~
30 ~~Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who~~

1 is 12 years of age or older or who will turn 12 years old before or during the season for which the license is
2 issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department
3 regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big
4 game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of
5 Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation
6 license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not
7 Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

8 ——— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big
9 game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk
10 permits established by the commission."

11
12 ——— **Section 14.** Section 87-2-510, MCA, is amended to read:

13 ——— **"87-2-510. (Temporary) Class B-11--nonresident deer combination license.** (1) Except as otherwise
14 provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or
15 older or who will turn 12 years old before or during the season for which the license is issued may, upon payment
16 of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the
17 fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for
18 applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325
19 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved
20 pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that
21 sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife,
22 and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles
23 a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses.
24 This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

25 ——— (2) Subject to the management provisions provided in [sections 1 through 5], not Not more than 2,300
26 unreserved Class B-11 licenses may be sold in any 1 license year.

27 ——— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer
28 combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits
29 established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L.
30 1999; sec. 9, Ch. 216, L. 2001.)

~~87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.~~

~~(2) Subject to the management provisions provided in [sections 1 through 5], 6,000 Six thousand Class B-11 licenses are authorized for sale each license year.~~

~~(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."~~

~~Section 15. Section 87-2-511, MCA, is amended to read:~~

~~"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).~~

~~(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~(b) submit to the department, in a manner prescribed by the department, complete records of who~~

1 ~~hunted with the resident sponsor, where they hunted, and what game was taken; and~~

2 ~~——— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for~~
3 ~~providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and~~
4 ~~this title.~~

5 ~~——— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the~~
6 ~~sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.~~
7 ~~If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one~~
8 ~~applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses~~
9 ~~remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the~~
10 ~~second applicant sponsored by each resident landowner. The department shall conduct a drawing for any~~
11 ~~remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1)~~
12 ~~to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall~~
13 ~~conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may~~
14 ~~submit no more than 15 certificates of sponsorship in any license year.~~

15 ~~——— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written~~
16 ~~affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the~~
17 ~~applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt.~~
18 ~~In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that~~
19 ~~affirms that the outfitter will:~~

20 ~~——— (a) accompany the applicant;~~

21 ~~——— (b) provide guiding services for the species hunted by the applicant;~~

22 ~~——— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise~~
23 ~~the applicant of game and trespass laws of the state;~~

24 ~~——— (d) submit to the department, in a manner prescribed by the department, complete records of who~~
25 ~~hunted with the outfitter, where they hunted, and what game was taken; and~~

26 ~~——— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for~~
27 ~~providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and~~
28 ~~this title.~~

29 ~~——— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the~~
30 ~~affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable~~

or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

~~———— (6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.~~

~~———— (7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.~~

~~———— (8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.~~

~~———— (9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)~~

~~———— **87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses.** (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).~~

~~———— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~———— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~———— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~———— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the~~

1 sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

2 ~~—— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written~~
3 ~~affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the~~
4 ~~applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt.~~
5 ~~In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that~~
6 ~~affirms that the outfitter will:~~

7 ~~—— (a) accompany the applicant;~~

8 ~~—— (b) provide guiding services for the species hunted by the applicant;~~

9 ~~—— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise~~
10 ~~the applicant of game and trespass laws of the state;~~

11 ~~—— (d) submit to the department, in a manner prescribed by the department, complete records of who~~
12 ~~hunted with the outfitter, where they hunted, and what game was taken; and~~

13 ~~—— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for~~
14 ~~providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and~~
15 ~~this title.~~

16 ~~—— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the~~
17 ~~affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable~~
18 ~~or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an~~
19 ~~outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations~~
20 ~~under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the~~
21 ~~substitute outfitter.~~

22 ~~—— (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold~~
23 ~~on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident~~
24 ~~sponsor.~~

25 ~~—— (7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold~~
26 ~~reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for~~
27 ~~the respective unreserved licenses."~~

28
29 ~~—— **Section 16.** Section 87-2-512, MCA, is amended to read:~~

30 ~~—— **"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management**~~

purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management: ——— (a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504; ——— (b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses; ——— (c) shall set the fees for the separated licenses as follows: ——— (i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and ——— (ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; ——— (d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts; ——— (e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511; ——— (f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, except that Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and ——— (g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer. ——— (2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to

other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."

SECTION 12. SECTION 87-2-504, MCA, IS AMENDED TO READ:

"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

—— (i) Class B-7, deer A tag, \$250;

—— (ii) Class B-8, deer B tag, \$75.

—— (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

—— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Not Subject to the management provisions provided in [sections 1 through 5], not more than 5,000 Class B-7 licenses may be sold in any license year.

—— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

1 ~~—— (i) Class B-7, deer A tag, \$250;~~

2 ~~—— (ii) Class B-8, deer B tag, \$75.~~

3 ~~—— (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals~~
4 ~~authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

5 ~~—— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be~~
6 ~~assigned for use in a specific administrative region or regions or a portion of a specific administrative region or~~
7 ~~regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If~~
8 ~~purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state,~~
9 ~~except as provided in 87-2-512(1)(d).~~

10 ~~—— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by~~
11 ~~hunting districts, portions of a hunting district, groups of districts, or administrative regions."~~

12
13 ~~—— **SECTION 13. SECTION 87-2-505, MCA, IS AMENDED TO READ:**~~

14 ~~—— **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as~~
15 ~~otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years~~
16 ~~of age or older or who will turn 12 years old before or during the season for which the license is issued may,~~
17 ~~upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or~~
18 ~~upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved~~
19 ~~pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject~~
20 ~~to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office,~~
21 ~~Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is~~
22 ~~12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This~~
23 ~~license includes the nonresident conservation license as prescribed in 87-2-202. Not Subject to the management~~
24 ~~provisions provided in [sections 1 through 5], not more than 11,500 unreserved Class B-10 licenses may be sold~~
25 ~~in any 1 license year.~~

26 ~~—— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big~~
27 ~~game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk~~
28 ~~permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch.~~
29 ~~544, L. 1999; sec. 9, Ch. 216, L. 2001.)~~

30 ~~—— **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.** (1)~~

1 Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who
2 is 12 years of age or older or who will turn 12 years old before or during the season for which the license is
3 issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department
4 regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big
5 game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of
6 Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation
7 license as prescribed in 87-2-202. Not Subject to the management provisions provided in [sections 1 through
8 5], not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

9 (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big
10 game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk
11 permits established by the commission."

12
13 ~~SECTION 14. SECTION 87-2-510, MCA, IS AMENDED TO READ:~~

14 ~~"87-2-510. (Temporary) Class B-11--nonresident deer combination license. (1) Except as otherwise~~
15 ~~provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or~~
16 ~~older or who will turn 12 years old before or during the season for which the license is issued may, upon payment~~
17 ~~of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the~~
18 ~~fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for~~
19 ~~applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325~~
20 ~~plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved~~
21 ~~pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that~~
22 ~~sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife,~~
23 ~~and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles~~
24 ~~a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses.~~
25 ~~This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.~~

26 ~~(2) Not Subject to the management provisions provided in [sections 1 through 5], not more than 2,300~~
27 ~~unreserved Class B-11 licenses may be sold in any 1 license year.~~

28 ~~(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer~~
29 ~~combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits~~
30 ~~established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L.~~

1999; sec. 9, Ch. 216, L. 2001.)

———— ~~87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.~~

———— ~~(2) Six thousand Subject to the management provisions provided in [sections 1 through 5], 6,000 Class B-11 licenses are authorized for sale each license year.~~

———— ~~(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."~~

———— ~~**SECTION 15. SECTION 87-2-511, MCA, IS AMENDED TO READ:**~~

———— ~~**"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).**~~

———— ~~(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

———— ~~(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~———(b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~———(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.~~

~~———(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~———(a) accompany the applicant;~~

~~———(b) provide guiding services for the species hunted by the applicant;~~

~~———(c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~———(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~———(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the~~

affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

~~———— (6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.~~

~~———— (7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.~~

~~———— (8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.~~

~~———— (9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)~~

~~———— **87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses.** (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).~~

~~———— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~———— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~———— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~———— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.~~

~~———— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~———— (a) accompany the applicant;~~

~~———— (b) provide guiding services for the species hunted by the applicant;~~

~~———— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~———— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~———— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~———— (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.~~

~~———— (7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."~~

~~———— **SECTION 16. SECTION 87-2-512, MCA, IS AMENDED TO READ:**~~

~~—————"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management: ——— (a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504; ——— (b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses; ——— (c) shall set the fees for the separated licenses as follows: ——— (i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and ——— (ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; ——— (d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts; ——— (e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511; ——— (f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, except that, Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and ——— (g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer. ——— (2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must~~

~~be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."~~

Section 10. Section 87-2-513, MCA, is amended to read:

"87-2-513. (Temporary) Either-sex or antlerless elk permit for landowner who offers free public elk hunting -- terms, conditions, and issuance of permit. (1) In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting for wildlife management purposes pursuant to this section.

(2) To be eligible for a permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department that allows public access for free public elk hunting on the landowner's property throughout the regular hunting season and that includes public hunting by permit holders using permits that are valid for the hunting district;

(d) may not receive cash payments under 87-1-267; and

(e) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-serve basis.

(4) A permit issued pursuant to this section:

(a) is nontransferable and may not be sold; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of the permits according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the restrictions and conditions of a permit issued pursuant to this section, that landowner or landowner's designee is not eligible to receive another permit pursuant to this section during any subsequent license year.

(7) The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. (Terminates March 1, 2006--sec. 4, Ch. 519, L. 2001.)"

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87, chapter 1, apply to [sections 1 through 5].

NEW SECTION. **Section 12. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 13. Effective date.** [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 42
INTRODUCED BY D. BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ENSURE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE AND A STATUTORY APPROPRIATION; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED; AMENDING SECTIONS 17-7-502, 87-1-201, 87-1-268, 87-1-301, 87-2-104, 87-2-501, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512, AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the universal mission of all wildlife management agencies includes an implied objective to manage wildlife within acceptable levels to ensure that wildlife does not become a nuisance or a hazard; and

WHEREAS, for over 70 years wildlife populations in Montana have continued to increase and the damage to private land as a result of this increased wildlife population has increased dramatically; and

WHEREAS, the Department of Fish, Wildlife, and Parks has historically included private land as part of the habitat equation in determining how much habitat is available for wildlife use in Montana; and

WHEREAS, the amount of habitat that is available for use by wildlife should be recalculated to accurately reflect the amount of habitat that is available without causing game damage to agricultural crops; and

WHEREAS, when determining wildlife habitat, private land acreage should be excluded from the equation and public land should be considered based on a multiple use policy; and

WHEREAS, it is time for the Department of Fish, Wildlife, and Parks to use the tools that it has had available for many years, along with new tools to be implemented through this legislation, to manage Montana's wildlife populations in a sustainable manner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 5] is to require the commission, with advice of the department, to manage elk, deer, and antelope populations in a sustainable

manner that keeps animal populations at a number that does not adversely affect private property owners.

NEW SECTION. Section 2. Calculation of available habitat. When determining the total acreage that serves as habitat for elk, deer, and antelope, the commission shall consider only public land and private land that is under contract with the department for wildlife management or habitat enhancement purposes. This calculation must be reconsidered and provided to the public by October 1 of each odd-numbered year.

NEW SECTION. Section 3. Viable elk, deer, and antelope populations based on habitat acreage -- reduction of populations as necessary. (1) Based on the habitat acreage that is determined pursuant to [section 2], the commission shall determine the appropriate elk, deer, and antelope numbers that can be viably sustained.

(2) Once the sustainable population numbers are determined as provided in subsection (1), the department shall implement, through the rulemaking process and other applicable programs, a program to ensure that the population of elk, deer, and antelope remains at or below the sustainable population. The program implemented by the department may include but is not limited to:

- (a) liberalized harvests;
- (b) game damage hunts;
- (c) landowner permits;
- (d) herd dispersal; or
- (e) animal relocation.

(3) The department shall:

(a) ensure that populations of elk, deer, and antelope are at or below the sustainable population number by January 1, 2009; and

(b) evaluate the elk, deer, and antelope populations on an annual basis and provide that information to the public.

NEW SECTION. Section 4. Sustainable elk, deer, and antelope populations program -- funding. The department shall use money from the fish and game fund, as described in 87-1-601(3), to implement [sections 1 through 5]. That portion of the money in the fund that the department determines is necessary for the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502.

NEW SECTION. **Section 5. Rulemaking.** (1) The department and the commission may adopt rules that are necessary to implement [sections 1 through 5].

(2) In adopting rules for determining sustainability, the commission shall consider average carrying capacity and use generally accepted animal unit factors for each species in each commission district.

Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates

July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Section 7. Section 87-1-201, MCA, is amended to read:

"87-1-201. (Temporary) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-1-201. (Effective March 1, 2006) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing."

Section 8. Section 87-1-268, MCA, is amended to read:

"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. Subject to the management provisions provided in [sections 1 through 5], the ~~The~~ fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"

Section 9. Section 87-1-301, MCA, is amended to read:

"87-1-301. (Temporary) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders;

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope;

and

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts in the administrative region designated by the department as region 1; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts in the administrative region designated by the department as region 1, which may include limiting the number of nonresident hound handler permits.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(Terminates April 30, 2004--sec. 3, Ch. 575, L. 2001.)

87-1-301. (Effective May 1, 2004) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

- (b) shall establish the hunting, fishing, and trapping rules of the department;
- (c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;
- (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
- (e) shall approve all acquisitions or transfers by the department of interests in land or water;
- (f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~
- (g) shall review and approve construction projects whose estimated cost is more than \$1,000 but less than \$5,000; and
- (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

- (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:
- (i) separate deer licenses from nonresident elk combination licenses;
 - (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
 - (iii) condition the use of the deer licenses; and
 - (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders;

- (i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope;
~~and~~
- (ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and
- (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission."

Section 10. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses allowed -- fees. (1) It is unlawful for any person to apply for, purchase, or possess more than one license of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 licenses or to licenses issued under subsection (3) for game management purposes. However, when more than one license is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses than are authorized.

(2) The department may prescribe rules and regulations for the issuance or sale of a replacement license in the event the original license is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(3) When authorized by the commission for game management purposes, the department may issue more than one Class A-3, Class A-4, Class A-5, Class A-7, Class B-7, Class B-8, Class B-10, Class B-11, or special antelope license to an applicant. An applicant for these game management licenses is not at the time of application required to hold any license or permit of that class.

(4) The fee for any resident or nonresident license of any class issued under subsection (3) must be set annually by the department and may not exceed the regular fee provided by law for that class or species."

Section 11. Section 87-2-501, MCA, is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7 resident and nonresident license requirements and preference. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department

rules:

- (a) Class A-3, deer A tag, \$13;
- (b) Class A-4, deer B tag, \$8;
- (c) Class A-5, elk tag, \$16;
- (d) Class A-6, black bear tag, \$15;
- (e) Class A-7, antlerless elk tag, \$16.

(2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the commission.

(b) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ person may not take more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use of special elk permits.

(c) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Subject to the management provisions provided in [sections 1 through 5], 15% ~~Fifteen percent~~ of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

Section 12. Section 87-2-504, MCA, is amended to read:

"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena,

Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 5,000 Class B-7 licenses may be sold in any license year.

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions."

Section 13. Section 87-2-505, MCA, is amended to read:

"87-2-505. (Temporary) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 17,000 Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

Section 14. Section 87-2-510, MCA, is amended to read:

"87-2-510. (Temporary) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) Subject to the management provisions provided in [sections 1 through 5], 6,000 ~~Six thousand~~ Class B-11 licenses are authorized for sale each license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

Section 15. Section 87-2-511, MCA, is amended to read:

"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

- (a) accompany the applicant;
- (b) provide guiding services for the species hunted by the applicant;
- (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;
- (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and
- (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

(7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

(8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.

(9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses. (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and

Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

- (a) accompany the applicant;
- (b) provide guiding services for the species hunted by the applicant;
- (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;
- (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and
- (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the

affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.

(7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."

Section 16. Section 87-2-512, MCA, is amended to read:

"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:

(a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;

(b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;

(c) shall set the fees for the separated licenses as follows:

(i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and

(ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;

(d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions,

portions of administrative regions, hunting districts, or portions of hunting districts;

(e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;

(f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511; ~~except that.~~ Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and

(g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.

(2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."

Section 17. Section 87-2-513, MCA, is amended to read:

"87-2-513. (Temporary) Either-sex or antlerless elk permit for landowner who offers free public elk hunting -- terms, conditions, and issuance of permit. (1) In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting for wildlife management purposes pursuant to this section.

(2) To be eligible for a permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department that

allows public access for free public elk hunting on the landowner's property throughout the regular hunting season and that includes public hunting by permitholders using permits that are valid for the hunting district;

(d) may not receive cash payments under 87-1-267; and

(e) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-serve basis.

(4) A permit issued pursuant to this section:

(a) is nontransferable and may not be sold; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of the permits according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the restrictions and conditions of a permit issued pursuant to this section, that landowner or landowner's designee is not eligible to receive another permit pursuant to this section during any subsequent license year.

(7) The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. (Terminates March 1, 2006--sec. 4, Ch. 519, L. 2001.)"

NEW SECTION. **Section 18. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87, chapter 1, apply to [sections 1 through 5].

NEW SECTION. **Section 19. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 20. Effective date.** [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 42
INTRODUCED BY BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ENSURE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE AND A STATUTORY APPROPRIATION; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED; AMENDING SECTIONS 17-7-502, 87-1-201, 87-1-268, 87-1-301, 87-2-104, 87-2-501, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512, AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the universal mission of all wildlife management agencies includes an implied objective to manage wildlife within acceptable levels to ensure that wildlife does not become a nuisance or a hazard; and

WHEREAS, for over 70 years wildlife populations in Montana have continued to increase and the damage to private land as a result of this increased wildlife population has increased dramatically; and

WHEREAS, the Department of Fish, Wildlife, and Parks has historically included private land as part of the habitat equation in determining how much habitat is available for wildlife use in Montana; and

WHEREAS, the amount of habitat that is available for use by wildlife should be recalculated to accurately reflect the amount of habitat that is available without causing game damage to agricultural crops; and

~~WHEREAS, when determining wildlife habitat, private land acreage should be excluded from the equation and public land should be considered based on a multiple use policy; and~~

WHEREAS, it is time for the Department of Fish, Wildlife, and Parks to use the tools that it has had available for many years, along with new tools to be implemented through this legislation, to manage Montana's wildlife populations in a sustainable manner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 5] is to require the commission, with advice of the department, to manage elk, deer, and antelope populations in a sustainable

manner that keeps animal populations at a number that does not adversely affect ~~private property owners~~
MONTANA LAND.

NEW SECTION. **Section 2. Calculation of available habitat.** When determining the total acreage that serves as habitat for elk, deer, and antelope, the commission shall consider ~~only~~ public land and private land ~~that is under contract with the department~~ for wildlife management or habitat enhancement purposes. This calculation must be reconsidered and provided to the public by October 1 of each odd-numbered year.

NEW SECTION. **Section 3. Viable elk, deer, and antelope populations based on habitat acreage -- reduction of populations as necessary.** (1) Based on the habitat acreage that is determined pursuant to [section 2], the commission shall determine the appropriate elk, deer, and antelope numbers that can be viably sustained. THE DEPARTMENT SHALL CONSIDER THE SPECIFIC CONCERNS OF PRIVATE LANDOWNERS WHEN DETERMINING SUSTAINABLE NUMBERS PURSUANT TO THIS SECTION.

(2) Once the sustainable population numbers are determined as provided in subsection (1), the department shall implement, through ~~the rulemaking process and other applicable programs, a program~~ EXISTING WILDLIFE MANAGEMENT PROGRAMS, NECESSARY ACTIONS to ensure that the population of elk, deer, and antelope remains at or below the sustainable population. ~~The program implemented by the department~~ PROGRAMS may include but ~~is~~ ARE not limited to:

- (a) liberalized harvests;
- (b) game damage hunts;
- (c) landowner permits; OR
- ~~—— (d) herd dispersal; or~~
- ~~(e)(D)~~ (D) animal relocation.

(3) The department shall:

- (a) ensure that populations of elk, deer, and antelope are at or below the sustainable population number by January 1, 2009; and
- (b) evaluate the elk, deer, and antelope populations on an annual basis and provide that information to the public.

NEW SECTION. **Section 4. Sustainable elk, deer, and antelope populations program -- funding.** The department shall use money from the fish and game fund, as described in 87-1-601(3), to implement

[sections 1 through 5]. That portion of the money in the fund that the department determines is necessary for the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502.

NEW SECTION. Section 5. Rulemaking. (1) The department and the commission ~~may adopt~~ SHALL ADJUST EXISTING WILDLIFE MANAGEMENT rules AND PLANS ~~that are necessary~~ to implement [sections 1 through 5].

(2) ~~In adopting~~ THE DEPARTMENT AND THE COMMISSION MAY ADOPT rules for determining sustainability; ~~the~~ THE commission shall consider average carrying capacity and use generally accepted animal unit factors for each species in each commission ~~district~~ REGION.

(3) ANY RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (2) MUST BE ADOPTED IN A TIMELY MANNER.

Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana

to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Section 7. Section 87-1-201, MCA, is amended to read:

"87-1-201. (Temporary) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly

appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-1-201. (Effective March 1, 2006) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the

department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing."

Section 8. Section 87-1-268, MCA, is amended to read:

"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. Subject to the management provisions provided in [sections 1 through 5], the ~~The~~ fees

must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"

Section 9. Section 87-1-301, MCA, is amended to read:

"87-1-301. (Temporary) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope; and

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts in the administrative region designated by the department as region 1; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts in the administrative region designated by the department as region 1, which may include limiting the number of nonresident hound handler permits.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(Terminates April 30, 2004--sec. 3, Ch. 575, L. 2001.)

87-1-301. (Effective May 1, 2004) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects whose estimated cost is more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and

appropriate to regulate the harvest by nonresident big game combination license holders;

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope; and

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission."

Section 10. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses allowed -- fees. (1) It is unlawful for any person to apply for, purchase, or possess more than one license of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 licenses or to licenses issued under subsection (3) for game management purposes. However, when more than one license is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses than are authorized.

(2) The department may prescribe rules and regulations for the issuance or sale of a replacement license in the event the original license is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(3) When authorized by the commission for game management purposes, the department may issue more than one Class A-3, Class A-4, Class A-5, Class A-7, Class B-7, Class B-8, Class B-10, Class B-11, or special antelope license to an applicant. An applicant for these game management licenses is not at the time of application required to hold any license or permit of that class.

(4) The fee for any resident or nonresident license of any class issued under subsection (3) must be set annually by the department and may not exceed the regular fee provided by law for that class or species."

Section 11. Section 87-2-501, MCA, is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7 resident and nonresident license requirements and preference. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department rules:

- (a) Class A-3, deer A tag, \$13;
- (b) Class A-4, deer B tag, \$8;
- (c) Class A-5, elk tag, \$16;
- (d) Class A-6, black bear tag, \$15;
- (e) Class A-7, antlerless elk tag, \$16.

(2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the commission.

(b) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ person may not take more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use of special elk permits.

(c) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Subject to the management provisions provided in [sections 1 through 5], 15% ~~Fifteen percent~~ of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

Section 12. Section 87-2-504, MCA, is amended to read:

"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 5,000 Class B-7 licenses may be sold in any license year.

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be

assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions."

Section 13. Section 87-2-505, MCA, is amended to read:

"87-2-505. (Temporary) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as

prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 17,000 Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

Section 14. Section 87-2-510, MCA, is amended to read:

"87-2-510. (Temporary) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses

are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) Subject to the management provisions provided in [sections 1 through 5], 6,000 ~~Six thousand~~ Class B-11 licenses are authorized for sale each license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

Section 15. Section 87-2-511, MCA, is amended to read:

"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one

applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

- (a) accompany the applicant;
- (b) provide guiding services for the species hunted by the applicant;
- (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;
- (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and
- (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

(7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

(8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.

(9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses. (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

- (a) accompany the applicant;
- (b) provide guiding services for the species hunted by the applicant;
- (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise

the applicant of game and trespass laws of the state;

(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and

(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.

(7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."

Section 16. Section 87-2-512, MCA, is amended to read:

"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:

(a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;

(b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;

(c) shall set the fees for the separated licenses as follows:

(i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and

(ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;

(d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;

(e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;

(f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, ~~except that~~. Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and

(g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.

(2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."

Section 17. Section 87-2-513, MCA, is amended to read:

"87-2-513. (Temporary) Either-sex or antlerless elk permit for landowner who offers free public elk hunting -- terms, conditions, and issuance of permit. (1) In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting

for wildlife management purposes pursuant to this section.

(2) To be eligible for a permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department that allows public access for free public elk hunting on the landowner's property throughout the regular hunting season and that includes public hunting by permit holders using permits that are valid for the hunting district;

(d) may not receive cash payments under 87-1-267; and

(e) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-serve basis.

(4) A permit issued pursuant to this section:

(a) is nontransferable and may not be sold; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of the permits according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the restrictions and conditions of a permit issued pursuant to this section, that landowner or landowner's designee is not eligible to receive another permit pursuant to this section during any subsequent license year.

(7) The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. (Terminates March 1, 2006--sec. 4, Ch. 519, L. 2001.)"

NEW SECTION. **Section 18. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87, chapter 1, apply to [sections 1 through 5].

NEW SECTION. **Section 19. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 20. Effective date.** [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 42
INTRODUCED BY BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ENSURE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE ~~AND A STATUTORY APPROPRIATION~~; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED FOR RESIDENTS; AMENDING SECTIONS ~~17-7-502~~, 87-1-201, ~~87-1-268~~, 87-1-301, 87-2-104, 87-2-501, ~~87-2-504~~, ~~87-2-505~~, ~~87-2-510~~, ~~87-2-511~~, ~~87-2-512~~, AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the universal mission of all wildlife management agencies includes an implied objective to manage wildlife within acceptable levels to ensure that wildlife does not become a nuisance or a hazard; and

WHEREAS, for over 70 years wildlife populations in Montana have continued to increase and the damage to private land as a result of this increased wildlife population has increased dramatically; and

WHEREAS, the Department of Fish, Wildlife, and Parks has historically included private land as part of the habitat equation in determining how much habitat is available for wildlife use in Montana; and

WHEREAS, the amount of habitat that is available for use by wildlife should be recalculated to accurately reflect the amount of habitat that is available without causing game damage to agricultural crops; and

~~WHEREAS, when determining wildlife habitat, private land acreage should be excluded from the equation and public land should be considered based on a multiple use policy; and~~

WHEREAS, it is time for the Department of Fish, Wildlife, and Parks to use the tools that it has had available for many years, along with new tools to be implemented through this legislation, to manage Montana's wildlife populations in a sustainable manner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 5] is to require the commission, with advice of the department, to manage elk, deer, and antelope populations in a sustainable

manner that keeps animal populations at a number that does not adversely affect ~~private property owners~~
MONTANA LAND.

NEW SECTION. **Section 2. Calculation of available habitat.** When determining the total acreage that serves as habitat for elk, deer, and antelope, the commission shall consider ~~only~~ public land and private land ~~that is under contract with the department~~ for wildlife management or habitat enhancement purposes. This calculation must be reconsidered and provided to the public by October 1 of each odd-numbered year.

NEW SECTION. **Section 3. Viable elk, deer, and antelope populations based on habitat acreage -- reduction of populations as necessary.** (1) Based on the habitat acreage that is determined pursuant to [section 2], the commission shall determine the appropriate elk, deer, and antelope numbers that can be viably sustained. THE DEPARTMENT SHALL CONSIDER THE SPECIFIC CONCERNS OF PRIVATE LANDOWNERS WHEN DETERMINING SUSTAINABLE NUMBERS PURSUANT TO THIS SECTION.

(2) Once the sustainable population numbers are determined as provided in subsection (1), the department shall implement, through ~~the rulemaking process and other applicable programs, a program~~ EXISTING WILDLIFE MANAGEMENT PROGRAMS, NECESSARY ACTIONS to ensure that the population of elk, deer, and antelope remains at or below the sustainable population. ~~The program implemented by the department~~ PROGRAMS may include but ~~is~~ ARE not limited to:

- (a) liberalized harvests;
- (b) game damage hunts;
- (c) landowner permits; OR
- ~~—— (d) herd dispersal; or~~
- ~~(e)(D)~~ (D) animal relocation.

(3) The department shall:

- (a) ensure that populations of elk, deer, and antelope are at or below the sustainable population number by January 1, 2009; and
- (b) evaluate the elk, deer, and antelope populations on an annual basis and provide that information to the public.

NEW SECTION. **Section 4. Sustainable elk, deer, and antelope populations program -- funding.** The department shall use money from the fish and game fund, as described in 87-1-601(3), to implement

[sections 1 through 5]. That portion of the money in the fund that the department determines is necessary for the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502.

NEW SECTION. Section 5. Rulemaking. (1) The department and the commission ~~may adopt~~ SHALL ADJUST EXISTING WILDLIFE MANAGEMENT rules AND PLANS ~~that are necessary~~ to implement [sections 1 through 5].

(2) ~~In adopting~~ THE DEPARTMENT AND THE COMMISSION MAY ADOPT rules for determining sustainability; ~~the~~ THE commission shall consider average carrying capacity and use generally accepted animal unit factors for each species in each commission ~~district~~ REGION.

(3) ANY RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (2) MUST BE ADOPTED IN A TIMELY MANNER.

~~Section 6. Section 17-7-502, MCA, is amended to read:~~

~~"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~(a) The law containing the statutory authority must be listed in subsection (3).~~

~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.~~

~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana~~

~~to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"~~

Section 6. Section 87-1-201, MCA, is amended to read:

"87-1-201. (Temporary) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly

appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-1-201. (Effective March 1, 2006) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the

department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing."

~~Section 8. Section 87-1-268, MCA, is amended to read:~~

~~"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. Subject to the management provisions provided in [sections 1 through 5], the The fees~~

~~must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"~~

Section 7. Section 87-1-301, MCA, is amended to read:

"87-1-301. (Temporary) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope; ~~and~~

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; ~~and~~

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts in the administrative region designated by the department as region 1; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts in the administrative region designated by the department as region 1, which may include limiting the number of nonresident hound handler permits.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(Terminates April 30, 2004--sec. 3, Ch. 575, L. 2001.)

87-1-301. (Effective May 1, 2004) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects whose estimated cost is more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and

appropriate to regulate the harvest by nonresident big game combination license holders;

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope; and

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission."

Section 8. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses allowed -- fees. (1) It is unlawful for any person to apply for, purchase, or possess more than one license of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 licenses or to licenses issued under subsection (3) for game management purposes. However, when more than one license is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses than are authorized.

(2) The department may prescribe rules and regulations for the issuance or sale of a replacement license in the event the original license is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(3) When authorized by the commission for game management purposes, the department may issue more than one Class A-3, Class A-4, Class A-5, Class A-7, Class B-7, Class B-8, Class B-10, Class B-11, or special antelope license to an applicant. An applicant for these game management licenses is not at the time of application required to hold any license or permit of that class.

(4) The fee for any resident or nonresident license of any class issued under subsection (3) must be set annually by the department and may not exceed the regular fee provided by law for that class or species."

Section 9. Section 87-2-501, MCA, is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7 resident and nonresident license requirements and preference. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department rules:

- (a) Class A-3, deer A tag, \$13;
- (b) Class A-4, deer B tag, \$8;
- (c) Class A-5, elk tag, \$16;
- (d) Class A-6, black bear tag, \$15;
- (e) Class A-7, antlerless elk tag, \$16.

(2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the commission.

(b) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ person may not take more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use of special elk permits.

(c) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Subject to the management provisions provided in [sections 1 through 5], 15% ~~Fifteen percent~~ of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

~~Section 12.~~ Section 87-2-504, MCA, is amended to read:

~~"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~(i) Class B-7, deer A tag, \$250;~~

~~(ii) Class B-8, deer B tag, \$75.~~

~~(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Subject to the management provisions provided in [sections 1 through 5], not Not more than 5,000 Class B-7 licenses may be sold in any license year.~~

~~(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)~~

~~87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~(i) Class B-7, deer A tag, \$250;~~

~~(ii) Class B-8, deer B tag, \$75.~~

~~(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~——— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).~~

~~——— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions."~~

~~——— **Section 13.** Section 87-2-505, MCA, is amended to read:~~

~~——— **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not Not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.~~

~~——— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)~~

~~——— **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B,~~

Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. ~~Subject to the management provisions provided in [sections 1 through 5], not~~ Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

——— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

——— **Section 14.** Section 87-2-510, MCA, is amended to read:

——— **"87-2-510. (Temporary) Class B-11--nonresident deer combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

——— (2) ~~Subject to the management provisions provided in [sections 1 through 5], not~~ Not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

——— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

——— **87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a

~~Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.~~

~~———— (2) Subject to the management provisions provided in [sections 1 through 5], 6,000 Six thousand Class B-11 licenses are authorized for sale each license year.~~

~~———— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."~~

~~———— **Section 15.** Section 87-2-511, MCA, is amended to read:~~

~~———— **"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses.** (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).~~

~~———— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~———— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~———— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~———— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.~~

~~If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.~~

~~———— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~———— (a) accompany the applicant;~~

~~———— (b) provide guiding services for the species hunted by the applicant;~~

~~———— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~———— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~———— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~———— (6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.~~

~~———— (7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an~~

outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

———(8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.

———(9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

———**87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses.** (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3):

———(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

———(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

———(b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and

———(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

———(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

———(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

———(a) accompany the applicant;

———(b) provide guiding services for the species hunted by the applicant;

~~—— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~—— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~—— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~—— (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.~~

~~—— (7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."~~

~~—— **Section 16.** Section 87-2-512, MCA, is amended to read:~~

~~—— **"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue.** (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:~~

~~—— (a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;~~

~~—— (b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;~~

~~———— (c) shall set the fees for the separated licenses as follows:~~

~~———— (i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and~~

~~———— (ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;~~

~~———— (d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;~~

~~———— (e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;~~

~~———— (f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, except that. Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and~~

~~———— (g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.~~

~~———— (2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."~~

Section 10. Section 87-2-513, MCA, is amended to read:

"87-2-513. (Temporary) Either-sex or antlerless elk permit for landowner who offers free public elk hunting -- terms, conditions, and issuance of permit. (1) In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number

authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting for wildlife management purposes pursuant to this section.

(2) To be eligible for a permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department that allows public access for free public elk hunting on the landowner's property throughout the regular hunting season and that includes public hunting by permit holders using permits that are valid for the hunting district;

(d) may not receive cash payments under 87-1-267; and

(e) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-serve basis.

(4) A permit issued pursuant to this section:

(a) is nontransferable and may not be sold; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of the permits according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the restrictions and conditions of a permit issued pursuant to this section, that landowner or landowner's designee is not eligible to receive another permit pursuant to this section during any subsequent license year.

(7) The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. (Terminates March 1, 2006--sec. 4, Ch. 519, L. 2001.)"

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87, chapter 1, apply to [sections 1 through 5].

NEW SECTION. **Section 12. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 13. Effective date.** [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 42
INTRODUCED BY BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ENSURE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE ~~AND A STATUTORY APPROPRIATION~~ AND A STATUTORY APPROPRIATION; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED FOR RESIDENTS; AMENDING SECTIONS ~~17-7-502, 17-7-502, 87-1-201, 87-1-268, 87-1-268,~~ 87-1-301, 87-2-104, 87-2-501, ~~87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512,~~ 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512, AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the universal mission of all wildlife management agencies includes an implied objective to manage wildlife within acceptable levels to ensure that wildlife does not become a nuisance or a hazard; and

WHEREAS, for over 70 years wildlife populations in Montana have continued to increase and the damage to private land as a result of this increased wildlife population has increased dramatically; and

WHEREAS, the Department of Fish, Wildlife, and Parks has historically included private land as part of the habitat equation in determining how much habitat is available for wildlife use in Montana; and

WHEREAS, the amount of habitat that is available for use by wildlife should be recalculated to accurately reflect the amount of habitat that is available without causing game damage to agricultural crops; and

~~WHEREAS, when determining wildlife habitat, private land acreage should be excluded from the equation and public land should be considered based on a multiple use policy; and~~

WHEREAS, it is time for the Department of Fish, Wildlife, and Parks to use the tools that it has had available for many years, along with new tools to be implemented through this legislation, to manage Montana's wildlife populations in a sustainable manner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 5] is to require the

commission, with advice of the department, to manage elk, deer, and antelope populations in a sustainable manner that keeps animal populations at a number that does not adversely affect ~~private property owners~~ MONTANA LAND.

NEW SECTION. Section 2. Calculation of available habitat. When determining the total acreage that serves as habitat for elk, deer, and antelope, the commission shall consider ~~only~~ public land and private land ~~that is under contract with the department~~ for wildlife management or habitat enhancement purposes. This calculation must be reconsidered and provided to the public by October 1 of each odd-numbered year.

NEW SECTION. Section 3. Viable elk, deer, and antelope populations based on habitat acreage -- reduction of populations as necessary. (1) Based on the habitat acreage that is determined pursuant to [section 2], the commission shall determine the appropriate elk, deer, and antelope numbers that can be viably sustained. THE DEPARTMENT SHALL CONSIDER THE SPECIFIC CONCERNS OF PRIVATE LANDOWNERS WHEN DETERMINING SUSTAINABLE NUMBERS PURSUANT TO THIS SECTION.

(2) Once the sustainable population numbers are determined as provided in subsection (1), the department shall implement, through ~~the rulemaking process and other applicable programs, a program~~ EXISTING WILDLIFE MANAGEMENT PROGRAMS, NECESSARY ACTIONS to ensure that the population of elk, deer, and antelope remains at or below the sustainable population. ~~The program implemented by the department~~ PROGRAMS may include but ~~is~~ ARE not limited to:

- (a) liberalized harvests;
- (b) game damage hunts;
- (c) landowner permits; OR
- ~~— (d) herd dispersal; or~~
- ~~(e)(D)~~ (D) animal relocation.

(3) The department shall:

- (a) ensure that populations of elk, deer, and antelope are at or below the sustainable population number by January 1, 2009; and
- (b) evaluate the elk, deer, and antelope populations on an annual basis and provide that information to the public.

NEW SECTION. Section 4. Sustainable elk, deer, and antelope populations program -- funding.

The department shall use money from the fish and game fund, as described in 87-1-601(3), to implement [sections 1 through 5]. ~~That portion of the money in the fund that the department determines is necessary for the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502. THAT PORTION OF THE MONEY IN THE FUND THAT THE DEPARTMENT DETERMINES IS NECESSARY FOR THE PURPOSE OF IMPLEMENTING [SECTIONS 1 THROUGH 5] IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502.~~

NEW SECTION. Section 5. Rulemaking. (1) The department and the commission ~~may adopt~~ SHALL ADJUST EXISTING WILDLIFE MANAGEMENT rules AND PLANS ~~that are necessary~~ to implement [sections 1 through 5].

(2) ~~In adopting~~ THE DEPARTMENT AND THE COMMISSION MAY ADOPT rules for determining sustainability; ~~the~~ THE commission shall consider average carrying capacity and use generally accepted animal unit factors for each species in each commission ~~district~~ REGION.

(3) ANY RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (2) MUST BE ADOPTED IN A TIMELY MANNER.

~~Section 6. Section 17-7-502, MCA, is amended to read:~~

~~"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~(a) The law containing the statutory authority must be listed in subsection (3):~~

~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.~~

~~———— (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"~~

SECTION 6. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,

paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Section 7. Section 87-1-201, MCA, is amended to read:

"87-1-201. (Temporary) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited

to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-1-201. (Effective March 1, 2006) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or

received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing."

~~Section 8. Section 87-1-268, MCA, is amended to read:~~

~~"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The~~

~~commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. Subject to the management provisions provided in [sections 1 through 5], the~~ The fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"

SECTION 8. SECTION 87-1-268, MCA, IS AMENDED TO READ:

"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"

Section 9. Section 87-1-301, MCA, is amended to read:

"87-1-301. (Temporary) Powers of commission. (1) The commission:

- (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;
- (b) shall establish the hunting, fishing, and trapping rules of the department;
- (c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;
- (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
- (e) shall approve all acquisitions or transfers by the department of interests in land or water;
- (f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope;
and

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by

the commission.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts in the administrative region designated by the department as region 1; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts in the administrative region designated by the department as region 1, which may include limiting the number of nonresident hound handler permits.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(Terminates April 30, 2004--sec. 3, Ch. 575, L. 2001.)

87-1-301. (Effective May 1, 2004) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects whose estimated cost is more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

- (i) separate deer licenses from nonresident elk combination licenses;
- (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
- (iii) condition the use of the deer licenses; and
- (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope;
~~and~~

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission."

Section 10. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses allowed -- fees. (1) It is unlawful for any person to apply for, purchase, or possess more than one license of any one class or more than one special license for any one species listed

in 87-2-701. This provision does not apply to Class B-4 licenses or to licenses issued under subsection (3) for game management purposes. However, when more than one license is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses than are authorized.

(2) The department may prescribe rules and regulations for the issuance or sale of a replacement license in the event the original license is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(3) When authorized by the commission for game management purposes, the department may issue more than one Class A-3, Class A-4, Class A-5, Class A-7, Class B-7, Class B-8, ~~Class B-10, Class B-11~~, CLASS B-10, CLASS B-11, or special antelope license to an applicant. An applicant for these game management licenses is not at the time of application required to hold any license or permit of that class.

(4) The fee for any resident or nonresident license of any class issued under subsection (3) must be set annually by the department and may not exceed the regular fee provided by law for that class or species."

Section 11. Section 87-2-501, MCA, is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7 resident and nonresident license requirements and preference. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department rules:

- (a) Class A-3, deer A tag, \$13;
- (b) Class A-4, deer B tag, \$8;
- (c) Class A-5, elk tag, \$16;
- (d) Class A-6, black bear tag, \$15;
- (e) Class A-7, antlerless elk tag, \$16.

(2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the commission.

(b) Subject to the management provisions provided in [sections 1 through 5], ~~a~~ A person may not take more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an

elk during the same license year with a Class A-5 license or nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use of special elk permits.

(c) Subject to the management provisions provided in [sections 1 through 5], ~~a~~ A nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Subject to the management provisions provided in [sections 1 through 5], ~~15%~~ Fifteen percent of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

~~Section 12. Section 87-2-504, MCA, is amended to read:~~

~~"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~(i) Class B-7, deer A tag, \$250;~~

~~(ii) Class B-8, deer B tag, \$75.~~

~~(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Subject to the management provisions provided in [sections 1 through 5], not~~ Not more than 5,000 Class B-7 licenses may be sold in any license year.

~~———— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)~~

~~———— **87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses.** (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~———— (i) Class B-7, deer A tag, \$250;~~

~~———— (ii) Class B-8, deer B tag, \$75.~~

~~———— (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~———— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).~~

~~———— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions."~~

~~———— **Section 13.** Section 87-2-505, MCA, is amended to read:~~

~~———— **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license~~

includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not Not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

——— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

——— **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

——— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

——— **Section 14.** Section 87-2-510, MCA, is amended to read:

——— **"87-2-510. (Temporary) Class B-11--nonresident deer combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder

who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

——— (2) ~~Subject to the management provisions provided in [sections 1 through 5], not~~ Not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

——— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

——— **87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

——— (2) ~~Subject to the management provisions provided in [sections 1 through 5], 6,000~~ Six thousand Class B-11 licenses are authorized for sale each license year.

——— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

——— **Section 15.** Section 87-2-511, MCA, is amended to read:

——— **"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses.** (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on

land owned by that sponsor, as provided in subsections (2) and (3):

~~——— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~——— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~——— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~——— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~——— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.~~

~~——— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~——— (a) accompany the applicant;~~

~~——— (b) provide guiding services for the species hunted by the applicant;~~

~~——— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~——— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted~~

with the outfitter, where they hunted, and what game was taken; and

——— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title;

——— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

——— (6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

——— (7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

——— (8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.

——— (9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

——— **87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses.** (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3):

——— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

——— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

——— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted

with the resident sponsor, where they hunted, and what game was taken; and

~~—— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.~~

~~—— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~—— (a) accompany the applicant;~~

~~—— (b) provide guiding services for the species hunted by the applicant;~~

~~—— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~—— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~—— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~—— (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.~~

~~—— (7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for~~

the respective unreserved licenses."

~~Section 16. Section 87-2-512, MCA, is amended to read:~~

~~"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:~~

~~—— (a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;~~

~~—— (b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;~~

~~—— (c) shall set the fees for the separated licenses as follows:~~

~~—— (i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and~~

~~—— (ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;~~

~~—— (d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;~~

~~—— (e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;~~

~~—— (f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, except that. Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and~~

~~—— (g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to~~

~~manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.~~

~~———(2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."~~

SECTION 12. SECTION 87-2-504, MCA, IS AMENDED TO READ:

"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). ~~Not~~ Subject to the management provisions provided in [sections 1 through 5], not more than 5,000 Class B-7 licenses may be sold in any license year.

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the

limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions."

SECTION 13. SECTION 87-2-505, MCA, IS AMENDED TO READ:

"87-2-505. (Temporary) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. ~~Not Subject to the management provisions provided in [sections 1 through 5], not~~ more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license. (1)

Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. ~~Not~~ Subject to the management provisions provided in [sections 1 through 5], not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

SECTION 14. SECTION 87-2-510, MCA, IS AMENDED TO READ:

"87-2-510. (Temporary) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) ~~Not~~ Subject to the management provisions provided in [sections 1 through 5], not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L.

1999; sec. 9, Ch. 216, L. 2001.)

87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) ~~Six thousand~~ Subject to the management provisions provided in [sections 1 through 5], 6,000 Class B-11 licenses are authorized for sale each license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

SECTION 15. SECTION 87-2-511, MCA, IS AMENDED TO READ:

"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) ~~The~~ Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted

with the resident sponsor, where they hunted, and what game was taken; and

(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

(a) accompany the applicant;

(b) provide guiding services for the species hunted by the applicant;

(c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;

(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and

(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an

outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

(7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

(8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.

(9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses. (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written

affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

- (a) accompany the applicant;
- (b) provide guiding services for the species hunted by the applicant;
- (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;
- (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and
- (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

(6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.

(7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."

SECTION 16. SECTION 87-2-512, MCA, IS AMENDED TO READ:

"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue. (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses

that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:

(a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;

(b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;

(c) shall set the fees for the separated licenses as follows:

(i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and

(ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;

(d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;

(e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;

(f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, ~~except that.~~ Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and

(g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.

(2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."

Section 17. Section 87-2-513, MCA, is amended to read:

"87-2-513. (Temporary) Either-sex or antlerless elk permit for landowner who offers free public elk hunting -- terms, conditions, and issuance of permit. (1) In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting for wildlife management purposes pursuant to this section.

(2) To be eligible for a permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department that allows public access for free public elk hunting on the landowner's property throughout the regular hunting season and that includes public hunting by permitholders using permits that are valid for the hunting district;

(d) may not receive cash payments under 87-1-267; and

(e) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-serve basis.

(4) A permit issued pursuant to this section:

(a) is nontransferable and may not be sold; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of the permits according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the restrictions and conditions of a permit issued pursuant to this section, that landowner or landowner's designee

is not eligible to receive another permit pursuant to this section during any subsequent license year.

(7) The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. (Terminates March 1, 2006--sec. 4, Ch. 519, L. 2001.)"

NEW SECTION. **Section 18. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87, chapter 1, apply to [sections 1 through 5].

NEW SECTION. **Section 19. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 20. Effective date.** [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 42
INTRODUCED BY BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CALCULATE THE AMOUNT OF HABITAT AVAILABLE FOR ELK, DEER, AND ANTELOPE IN MONTANA; REQUIRING A DETERMINATION OF SUSTAINABLE POPULATIONS BASED ON THE HABITAT CALCULATION; REQUIRING THE DEPARTMENT TO ~~ENSURE~~ MANAGE WITH THE OBJECTIVE THAT POPULATIONS OF ELK, DEER, AND ANTELOPE ARE AT OR BELOW THE POPULATION ESTIMATE; PROVIDING A FUNDING SOURCE ~~AND A STATUTORY APPROPRIATION AND A STATUTORY APPROPRIATION~~; PROVIDING FOR ADJUSTMENTS BASED ON MANAGEMENT PROVISIONS IN THE MAXIMUM LICENSE NUMBERS THAT CAN BE ALLOCATED ~~FOR RESIDENTS~~ FOR RESIDENTS; AMENDING SECTIONS ~~17-7-502, 17-7-502, 87-1-201, 87-1-268, 87-1-268, 87-1-301, 87-2-104, 87-2-501, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512, 87-2-504, 87-2-505, 87-2-510, 87-2-511, 87-2-512,~~ AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the universal mission of all wildlife management agencies includes an implied objective to manage wildlife within acceptable levels to ensure that wildlife does not become a nuisance or a hazard; and

WHEREAS, for over 70 years wildlife populations in Montana have continued to increase and the damage to private land as a result of this increased wildlife population has increased dramatically; and

WHEREAS, the Department of Fish, Wildlife, and Parks has historically included private land as part of the habitat equation in determining how much habitat is available for wildlife use in Montana; and

WHEREAS, the amount of habitat that is available for use by wildlife should be recalculated to accurately reflect the amount of habitat that is available without causing game damage to agricultural crops; and

~~WHEREAS, when determining wildlife habitat, private land acreage should be excluded from the equation and public land should be considered based on a multiple use policy; and~~

WHEREAS, it is time for the Department of Fish, Wildlife, and Parks to use the tools that it has had available for many years, along with new tools to be implemented through this legislation, to manage Montana's wildlife populations in a sustainable manner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 5] is to require the commission, with advice of the department, to manage elk, deer, and antelope populations in a sustainable manner that keeps animal populations at a number that does not adversely affect ~~private property owners~~ MONTANA LAND.

NEW SECTION. **Section 2. Calculation of available habitat.** When determining the total acreage that serves as habitat for elk, deer, and antelope, the commission shall consider ~~only~~ public land and private land ~~that is under contract with the department~~ for wildlife management or habitat enhancement purposes. This calculation must be reconsidered and provided to the public by October 1 of each odd-numbered year.

NEW SECTION. **Section 3. Viable elk, deer, and antelope populations based on habitat acreage -- reduction of populations as necessary.** (1) Based on the habitat acreage that is determined pursuant to [section 2], the commission shall determine the appropriate elk, deer, and antelope numbers that can be viably sustained. THE DEPARTMENT SHALL CONSIDER THE SPECIFIC CONCERNS OF PRIVATE LANDOWNERS WHEN DETERMINING SUSTAINABLE NUMBERS PURSUANT TO THIS SECTION.

(2) Once the sustainable population numbers are determined as provided in subsection (1), the department shall implement, through ~~the rulemaking process and other applicable programs, a program~~ EXISTING WILDLIFE MANAGEMENT PROGRAMS, NECESSARY ACTIONS ~~to ensure~~ WITH THE OBJECTIVE that the population of elk, deer, and antelope remains at or below the sustainable population. ~~The program implemented by the department~~ PROGRAMS may include but ~~is~~ ARE not limited to:

- (a) liberalized harvests;
- (b) game damage hunts;
- (c) landowner permits; OR
- ~~———— (d) herd dispersal; or~~
- ~~(e)~~ (D) animal relocation.

(3) The department shall:

(a) ~~ensure~~ MANAGE WITH THE OBJECTIVE that populations of elk, deer, and antelope are at or below the sustainable population number by January 1, 2009; and

(b) evaluate the elk, deer, and antelope populations on an annual basis and provide that information to the public.

NEW SECTION. Section 4. Sustainable elk, deer, and antelope populations program -- funding.

The department shall use money from the fish and game fund, as described in 87-1-601(3), to implement [sections 1 through 5]. ~~That portion of the money in the fund that the department determines is necessary for the purpose of implementing [sections 1 through 5] is statutorily appropriated, as provided in 17-7-502. THAT PORTION OF THE MONEY IN THE FUND THAT THE DEPARTMENT DETERMINES IS NECESSARY FOR THE PURPOSE OF IMPLEMENTING [SECTIONS 1 THROUGH 5] IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502.~~

NEW SECTION. Section 5. Rulemaking. (1) The department and the commission ~~may adopt~~ SHALL ADJUST EXISTING WILDLIFE MANAGEMENT rules AND PLANS ~~that are necessary~~ to implement [sections 1 through 5].

(2) ~~In adopting~~ THE DEPARTMENT AND THE COMMISSION MAY ADOPT rules for determining sustainability, ~~the~~ THE commission shall consider average carrying capacity and use generally accepted animal unit factors for each species in each commission ~~district~~ REGION.

(3) ANY RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (2) MUST BE ADOPTED IN A TIMELY MANNER.

~~Section 6. Section 17-7-502, MCA, is amended to read:~~

~~"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~(a) The law containing the statutory authority must be listed in subsection (3):~~

~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161;~~

~~[section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.~~

~~———— (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"~~

~~———— **SECTION 6. SECTION 17-7-502, MCA, IS AMENDED TO READ:**~~

~~———— **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~———— (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~———— (a) The law containing the statutory authority must be listed in subsection (3):~~

~~———— (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~———— (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 4]; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.~~

~~———— (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"~~

Section 6. Section 87-1-201, MCA, is amended to read:

"87-1-201. (Temporary) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no

further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-1-201. (Effective March 1, 2006) Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired

for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; ~~and~~

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing."

~~Section 8. Section 87-1-268, MCA, is amended to read:~~

~~—————"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. Subject to the management provisions provided in [sections 1 through 5], the The fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"~~

~~—————**SECTION 8.** SECTION 87-1-268, MCA, IS AMENDED TO READ:~~

~~—————"87-1-268. (Temporary) Variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. The Subject to the management provisions provided in [sections 1 through 5], the fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period. The sale period for the licenses must be established so that by the last date in the established period, those licenses that are unsold, up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses or more if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5], may be reallocated by the commission for a drawing at a price set by the commission. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)"~~

Section 7. Section 87-1-301, MCA, is amended to read:

"87-1-301. (Temporary) Powers of commission. (1) The commission:

- (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;
- (b) shall establish the hunting, fishing, and trapping rules of the department;
- (c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;
- (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
- (e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~
(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; ~~and~~

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

- (i) separate deer licenses from nonresident elk combination licenses;
- (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
- (iii) condition the use of the deer licenses; and
- (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope;
~~and~~

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying

landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts in the administrative region designated by the department as region 1; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts in the administrative region designated by the department as region 1, which may include limiting the number of nonresident hound handler permits.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(Terminates April 30, 2004--sec. 3, Ch. 575, L. 2001.)

87-1-301. (Effective May 1, 2004) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; ~~and~~

(g) shall review and approve construction projects whose estimated cost is more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [section 2] and maintain elk, deer, and antelope population numbers at or below population estimates as

provided in [section 3].

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

- (i) separate deer licenses from nonresident elk combination licenses;
- (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
- (iii) condition the use of the deer licenses; and
- (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of ~~deer and elk~~, deer, and antelope;
~~and~~

(ii) to control the impacts of those ~~deer and elk~~, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in [sections 1 through 5].

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission."

Section 8. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses allowed -- fees. (1) It is unlawful for any person to apply for, purchase,

or possess more than one license of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 licenses or to licenses issued under subsection (3) for game management purposes. However, when more than one license is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses than are authorized.

(2) The department may prescribe rules and regulations for the issuance or sale of a replacement license in the event the original license is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(3) When authorized by the commission for game management purposes, the department may issue more than one Class A-3, Class A-4, Class A-5, Class A-7, Class B-7, Class B-8, ~~Class B-10, Class B-11~~, CLASS B-10, CLASS B-11, or special antelope license to an applicant. An applicant for these game management licenses is not at the time of application required to hold any license or permit of that class.

(4) The fee for any resident or nonresident license of any class issued under subsection (3) must be set annually by the department and may not exceed the regular fee provided by law for that class or species."

Section 9. Section 87-2-501, MCA, is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7 resident and nonresident license requirements and preference. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department rules:

- (a) Class A-3, deer A tag, \$13;
- (b) Class A-4, deer B tag, \$8;
- (c) Class A-5, elk tag, \$16;
- (d) Class A-6, black bear tag, \$15;
- (e) Class A-7, antlerless elk tag, \$16.

(2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the commission.

(b) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ person may not take

more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use of special elk permits.

(c) Subject to the management provisions provided in [sections 1 through 5], a ~~A~~ nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Subject to the management provisions provided in [sections 1 through 5], 15% ~~Fifteen percent~~ of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

~~Section 12.~~ Section 87-2-504, MCA, is amended to read:

~~"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~(i) Class B-7, deer A tag, \$250;~~

~~(ii) Class B-8, deer B tag, \$75.~~

~~(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Subject to the management provisions provided in [sections 1 through 5], not~~ Not

~~more than 5,000 Class B-7 licenses may be sold in any license year.~~

~~———— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)~~

~~———— **87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses.** (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~———— (i) Class B-7, deer A tag, \$250;~~

~~———— (ii) Class B-8, deer B tag, \$75.~~

~~———— (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~———— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).~~

~~———— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions."~~

~~———— **Section 13.** Section 87-2-505, MCA, is amended to read:~~

~~———— **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years~~

of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not Not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

——— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

——— **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Subject to the management provisions provided in [sections 1 through 5], not Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

——— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

——— **Section 14.** Section 87-2-510, MCA, is amended to read:

——— **"87-2-510. (Temporary) Class B-11--nonresident deer combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks

office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

——— (2) ~~Subject to the management provisions provided in [sections 1 through 5], not~~ Not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

——— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

——— ~~87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license.~~ (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

——— (2) ~~Subject to the management provisions provided in [sections 1 through 5], 6,000~~ Six thousand Class B-11 licenses are authorized for sale each license year.

——— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

——— **Section 15.** Section 87-2-511, MCA, is amended to read:

——— **"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses.** (1) The ~~Subject to the management provisions provided in [sections 1 through 5], the~~ department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the

authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3):

~~———— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~———— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~———— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~———— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.~~

~~———— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~———— (a) accompany the applicant;~~

~~———— (b) provide guiding services for the species hunted by the applicant;~~

~~———— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~—— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~—— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~—— (6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.~~

~~—— (7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.~~

~~—— (8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.~~

~~—— (9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)~~

~~—— **87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses.** (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).~~

~~—— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~—— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~—— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~—— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.~~

~~—— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~—— (a) accompany the applicant;~~

~~—— (b) provide guiding services for the species hunted by the applicant;~~

~~—— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~—— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~—— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~—— (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.~~

~~—— (7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold~~

reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."

———— **Section 16.** Section 87-2-512, MCA, is amended to read:

———— **"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue.** (1) The commission may by rule separate the Class B-7 license

from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10 license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:

———— (a) subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;

———— (b) may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;

———— (c) shall set the fees for the separated licenses as follows:

———— (i) the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and

———— (ii) the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;

———— (d) may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;

———— (e) may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;

———— (f) may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, except that, Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and

~~—— (g) may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.~~

~~—— (2) The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."~~

~~—— **SECTION 12. SECTION 87-2-504, MCA, IS AMENDED TO READ:**~~

~~—— **"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses.** (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:~~

~~—— (i) Class B-7, deer A tag, \$250;~~

~~—— (ii) Class B-8, deer B tag, \$75.~~

~~—— (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.~~

~~—— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Not Subject to the management provisions provided in [sections 1 through 5], not more than 5,000 Class B-7 licenses may be sold in any license year.~~

~~—— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)~~

~~—— **87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses.** (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a~~

holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

—— (i) Class B-7, deer A tag, \$250;

—— (ii) Class B-8, deer B tag, \$75.

—— (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

—— (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d).

—— (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions."

—— **SECTION 13. SECTION 87-2-505, MCA, IS AMENDED TO READ:**

—— **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$625 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not Subject to the management provisions provided in [sections 1 through 5], not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

—— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544,

L. 1999; sec. 9, Ch. 216, L. 2001.)

~~———— 87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of \$550 and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not Subject to the management provisions provided in [sections 1 through 5], not more than 17,000 Class B-10 licenses may be sold in any 1 license year.~~

~~———— (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."~~

~~———— **SECTION 14. SECTION 87-2-510, MCA, IS AMENDED TO READ:**~~

~~———— "87-2-510. (Temporary) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$325 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.~~

~~———— (2) Not Subject to the management provisions provided in [sections 1 through 5], not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.~~

~~———— (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits~~

established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

~~87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$300, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is \$300 if the license is one of the 4,000 reserved pursuant to 87-2-511 or if additional licenses are authorized pursuant to the management provisions provided in [sections 1 through 5] for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.~~

~~(2) Six thousand Subject to the management provisions provided in [sections 1 through 5], 6,000 Class B-11 licenses are authorized for sale each license year.~~

~~(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."~~

~~SECTION 15. SECTION 87-2-511, MCA, IS AMENDED TO READ:~~

~~"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses. (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3):~~

~~(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~—— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~—— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.~~

~~—— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~—— (a) accompany the applicant;~~

~~—— (b) provide guiding services for the species hunted by the applicant;~~

~~—— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~—— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~—— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~—— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable~~

~~or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~——— (6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.~~

~~——— (7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.~~

~~——— (8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses that remain unsold available as provided in 87-1-268.~~

~~——— (9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6; Ch. 544, L. 1999.)~~

~~——— **87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses.** (1) The Subject to the management provisions provided in [sections 1 through 5], the department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).~~

~~——— (2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

~~——— (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

~~——— (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and~~

~~——— (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~——— (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.~~

~~———— (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:~~

~~———— (a) accompany the applicant;~~

~~———— (b) provide guiding services for the species hunted by the applicant;~~

~~———— (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;~~

~~———— (d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and~~

~~———— (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.~~

~~———— (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.~~

~~———— (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.~~

~~———— (7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for the respective unreserved licenses."~~

~~———— **SECTION 16. SECTION 87-2-512, MCA, IS AMENDED TO READ:**~~

~~———— **"87-2-512. Separation of Class B-7 license from Class B-10 license for deer management purposes -- disposition of license revenue.** (1) The commission may by rule separate the Class B-7 license from the Class B-10 license and sell the separated Class B-7 license, giving a preference to any Class B-10~~

license holder to purchase one of the separated Class B-7 licenses. In the case of separated Class B-7 licenses that are not purchased by Class B-10 license holders, the commission, for purposes of sound deer management:

——— (a) ~~subject to the management provisions provided in [sections 1 through 5], may authorize the sale of not more than 5,000 Class B-7 licenses that have been separated from the Class B-10 licenses, as limited by 87-2-504;~~

——— (b) ~~may authorize all or a portion of the separated Class B-7 licenses to be sold as Class B-11 combination licenses;~~

——— (c) ~~shall set the fees for the separated licenses as follows:~~

——— (i) ~~the fee for a Class B-10 license without the deer tag may not be more than the fee set in 87-2-505 for licenses in the general category and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268; and~~

——— (ii) ~~the fee for the separated Class B-11 licenses may not be more than the fees specified in 87-2-510 for licenses in the general and landowner-sponsored categories and may not be more than the fee set by the commission for licenses in the outfitter-sponsored category as specified in 87-1-268;~~

——— (d) ~~may assign the separated Class B-7 or Class B-11 licenses for use in specific administrative regions, portions of administrative regions, hunting districts, or portions of hunting districts;~~

——— (e) ~~may allocate a portion of the separated Class B-7 or Class B-11 licenses among the general and landowner-sponsored categories established in 87-2-510 and 87-2-511 but not count those licenses as part of the statutory quotas, with the Class B-7 licenses then subject to the requirements and procedures of 87-2-511;~~

——— (f) ~~may allocate a portion of the separated Class B-7 or Class B-11 licenses to the outfitter-sponsored category subject to the requirements and procedures of 87-2-511, except that, Subject to the management provisions provided in [sections 1 through 5], licenses in the outfitter-sponsored category may not comprise more than one-third of the licenses issued pursuant to this section and the number issued, when added to the number of Class B-11 licenses issued under 87-1-268, may not exceed 2,300 in any license year; and~~

——— (g) ~~may condition the separated Class B-7 and Class B-11 licenses as appropriate and necessary to manage the harvest of deer, including restricting the use of a license to either mule deer or whitetail deer.~~

——— (2) ~~The revenue from any Class B-11 licenses that have been separated from Class B-10 licenses must be deposited in the state special revenue account to the credit of the department and not allocated pursuant to other statutory requirements generally applicable to Class B-11 licenses. The revenue from Class B-10 licenses sold without a deer tag must be allocated in the same manner as revenue from Class B-10 licenses sold with a deer tag."~~

Section 10. Section 87-2-513, MCA, is amended to read:

"87-2-513. (Temporary) Either-sex or antlerless elk permit for landowner who offers free public elk hunting -- terms, conditions, and issuance of permit. (1) In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting for wildlife management purposes pursuant to this section.

(2) To be eligible for a permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department that allows public access for free public elk hunting on the landowner's property throughout the regular hunting season and that includes public hunting by permit holders using permits that are valid for the hunting district;

(d) may not receive cash payments under 87-1-267; and

(e) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) Subject to the management provisions provided in [sections 1 through 5], not ~~Not~~ more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-serve basis.

(4) A permit issued pursuant to this section:

(a) is nontransferable and may not be sold; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of the permits according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the

restrictions and conditions of a permit issued pursuant to this section, that landowner or landowner's designee is not eligible to receive another permit pursuant to this section during any subsequent license year.

(7) The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. (Terminates March 1, 2006--sec. 4, Ch. 519, L. 2001.)"

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87, chapter 1, apply to [sections 1 through 5].

NEW SECTION. **Section 12. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 13. Effective date.** [This act] is effective on passage and approval.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN JOE BALYEAT**, on February 4, 2003 at 3:02 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Joe Balyeat, Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Michael Lange, Vice Chairman (R)
Rep. Debby Barrett (R)
Rep. Paul Clark (D)
Rep. Jill Cohenour (D)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Carol Gibson (D)
Rep. Gail Gutsche (D)
Rep. Larry Jent (D)
Rep. Bob Lake (R)
Rep. Don Roberts (R)
Rep. Allen Rome (R)
Rep. Scott Sales (R)
Rep. Jim Shockley (R)
Rep. Pat Wagman (R)
Rep. Sandy Weiss (D)

Members Excused: Rep. Daniel Fuchs (R)

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Doug Sternberg, Legislative Branch

Video-taped Committee: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing & Date Posted: HB 372, 1/23/2003; HB 42, 1/17/2003

Executive Action: HB 55, DO PASS, 19-1

HB 101, DO PASS AS AMENDED, 20-0

HEARING ON HB 372

Sponsor: REP. CYR, HD 37, BUTTE

Opening Statement by Sponsor:

3:06 p.m. REP. CYR

Proponents' Testimony:

3:08 p.m. Tony Schooner

3:11 p.m. Tom Bugni, Skyline Sportsmen's Association

EXHIBIT(fih24a01)

3:1 p.m. Bill Holdorf, Skyline Sportsmen's Association, Anaconda

Opponents' Testimony:

3:18 p.m. Bill Tiddy, MARI and NFAA

Questions from Committee Members and Responses:

3:20 p.m. REP. FACEY

3:20 p.m. REP. CYR

3:21 p.m. CHAIRMAN BALYEAT

3:21 p.m. Chris Smith, Department of Fish, Wildlife and Parks

Closing by Sponsor:

3:22 p.m. REP. CYR

HEARING ON HB 42

Sponsor: REP. BARRETT, HD 34, DILLON

Opening Statement by Sponsor:

3:24 p.m. REP. BARRETT

EXHIBIT(fih24a02)

Proponents' Testimony:

3:37 p.m. Meg Smith, Smith 6-X

EXHIBIT(fih24a03)

EXHIBIT(fih24a04)

3:46 p.m. Elaine Mann, Broadwater County, MACO

3:55 p.m. Mark Peck, Broadwater County

4:02 p.m. REP. HURWITZ, HD 40, WHITE SULPHUR SPRINGS

4:04 p.m. Steve Pilcher, Montana Stockgrowers Association

4:05 p.m. Nancy Schlepp, Montana Farm Bureau

4:05 p.m. John Semple, Montana Woolgrowers,

4:06 p.m. Donna Sevalstad, County Commissioner

4:06 p.m. Ed Diemert, Liberty County Commissioner

4:07 p.m. Mike Barrett

4:11 p.m. Cliff Cox, Rancher

4:11 p.m. Dr. L.R. McEvoy

4:12 p.m. Mark Jasman

4:12 p.m. Jack Mahon, Townsend

4:14 p.m. Kathy Kimpton

EXHIBIT(fih24a05)

4:15 p.m. REP. RIPLEY, HD 50, WOLF CREEK

Opponents' Testimony:

4:16 p.m. Joelle Selk, Montana Bowhunters Association

4:24 p.m. Bill Tiddy

4:28 p.m. Robert Throssell, Montana Wildlife Federation

4:31 p.m. Bill Orsello, Montana Wildlife Federation

4:35 p.m. **Stan Frasier**

4:40 p.m. **Susan Campbell Reneau**

4:42 p.m. **Janet Ellis, Montana Audubon Society**

4:42 p.m. **Tony Schooner, State Lands Coalition**

4:46 p.m. **Bill Holdorf, Skyline Sportsmen Association**

4:49 p.m. **Chris Smith, Department of Fish, Wildlife and Parks**

Questions from Committee Members and Responses:

4:56 p.m. **REP. FACEY**

4:56 p.m. **REP. BARRETT**

4:58 p.m. **REP. FACEY**

4:59 p.m. **Chris Smith**

5:01 p.m. **REP. CLARK**

5:01 p.m. **Jean Johnson, Montana Outfitters and Guides Association**

5:03 p.m. **REP. CLARK**

5:04 p.m. **Chris Smith**

5:06 p.m. **REP. GALLUS**

5:06 p.m. **Chris Smith**

5:06 p.m. **REP. GALLUS**

5:07 p.m. **Chris Smith**

5:07 p.m. **REP. BARRETT**

5:09 p.m. **Chris Smith**

5:11 p.m. **REP. SHOCKLEY**

5:11 p.m. **Bill Orsello**

5:12 p.m. **REP. SHOCKLEY**

5:12 p.m. **Bill Orsello**

5:13 p.m. **REP. SHOCKLEY**

5:13 p.m. **Bill Orsello**

5:15 p.m. **CHAIRMAN BALYEAT**

5:17 p.m. **Elaine Mann**

5:20 p.m. **CHAIRMAN BALYEAT**

5:20 p.m. **Elaine Mann**

5:21 p.m. **CHAIRMAN BALYEAT**

5:21 p.m. **Chris Smith**

5:22 p.m. **CHAIRMAN BALYEAT**

5:22 p.m. **Chris Smith**

5:23 p.m. **REP. GUTSCHE**

5:23 p.m. **Chris Smith**

5:23 p.m. **Glenn Anderson, Department of Fish, Wildlife and Parks**

5:25 p.m. **REP. WAGMAN**

5:26 p.m. **Chris Smith**

5:26 p.m. **REP. WAGMAN**

5:27 p.m. **Chris Smith**

5:27 p.m. **Bob Lane, Department of Fish, Wildlife and Parks**

5:28 p.m. **CHAIRMAN BALYEAT**

5:28 p.m. **Meg Smith**

5:29 p.m. **CHAIRMAN BALYEAT**

5:30 p.m. **Meg Smith**

5:31 p.m. **Steve Pilcher, Montana Stockgrowers Association**

5:33 p.m. **CHAIRMAN BALYEAT**

5:33 p.m. **Steve Pilcher**

5:34 p.m. **CHAIRMAN BALYEAT**

5:34 p.m. **Steve Pilcher**

5:35 p.m. **REP. FACEY**

5:36 p.m. **Elaine Mann**

Closing by Sponsor:

5:37 p.m. **REP. BARRETT**

5:55 p.m. Break

EXECUTIVE ACTION ON 55

Motion: 6:02 p.m. **REP. FACEY** moved that **HB 55 DO PASS.**

6:04 p.m. **REP. BARRETT**

6:05 p.m. **REP. CLARK**

6:09 p.m. **CHAIRMAN BALYEAT**

6:11 p.m. **REP. FACEY**

Motion/Vote: Motion that **HB 55 DO PASS.** Motion carried 19-1 with **REP. BARRETT** voting no by roll call vote with **REPS. FUCHS** and **LAKE** voting yes by proxy.

EXECUTIVE ACTION ON HB 101

Motion: 6:14 p.m. **REP. JENT** moved that **HB 101 DO PASS.**

Motion/Vote: 6:15 p.m. **REP. FUCHS** moved that **HB 101 BE AMENDED.** Motion carried unanimously by voice vote.

EXHIBIT(fih24a06)

Motion/Vote: 6:16 p.m. **REP. JENT** moved that **HB 101 DO PASS AS AMENDED.** Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 6:16 P.M.

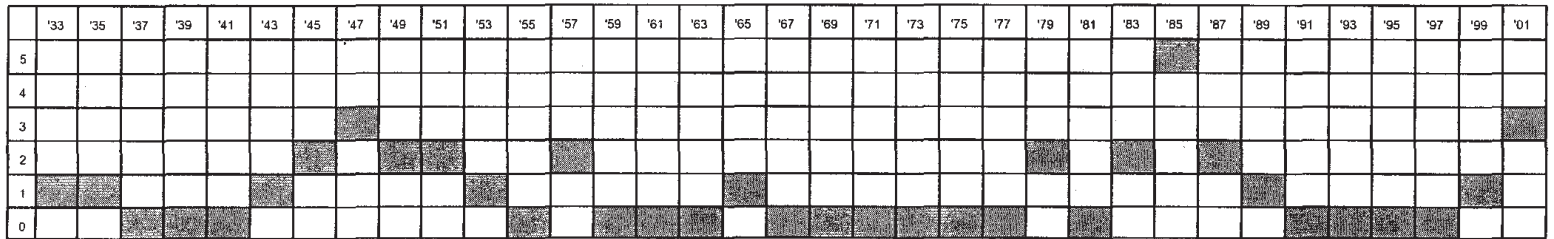
REP. JOE BALYEAT, Chairman

KATHLEEN ELY, Secretary

JB/KE

EXHIBIT (fih24aad)

Graph: Wildlife Damage to Property
Number of Pieces of Legislation 1933-2001



Total: 32

EXHIBIT 2
DATE 2-4-03
HB 42

*2003 Legislative Session
add another 8 pieces
of Legislation.*

EXHIBIT 3
DATE 2-4-03
HB 42

TO:
Fish Wildlife and Parks

FROM:
Meg B. Smith
PO Box 320007
Glen, MT 59732

RE: Elk Management Plan Revision

DATE: 12/30/02

I am a rancher, from SW Montana.

My family and I own and operate Smith Six Bar S Livestock, HQ Glen MT. I am submitting in writing, concerns we have, concerning current elk numbers, and the management of these elk by the FWP.

First, a background history.

Our ranch is a cow/calf yearling ranch, we graze cattle on a combination of federal, state and private lands, the majority of our land being privately owned rangeland. We provide feed and home for close to two thousand head of elk, majority of this number on a seasonal basis, the rest on a year round basis. We also provide grazing for deer, antelope, and moose. Elk are spending the summer on our hay meadows west of the interstate at the Glen ranch, also.

One of the ranches, the Feely Unit, borders the Fleecer Game range, and the National Forest Service, which lends itself to increased problems and pressures from high elk numbers and hunters.

We participate in the Block Management Program for McCartney Mountain, Rocker John Unit and Fleecer Mountain Unit and Lost Creek Unit.

We also participate in an exchange of grazing use agreement with the FWP on the Fleecer Game Range, this allows us to graze five hundred cows for one month in early spring, or 500 AUM's, in exchange for "allowing" the elk to "use" our ground.

I put these in quotes for the obvious reasons; we can manage the livestock, but we have no control over when and where and how long the elk graze on our property.

There is no set number or time for the elk, as there are for the cattle.

The elk numbers have increased exponentially in the last 20 years. Our cattle numbers have not. Thus, we are grazing the same amount of cattle, in addition to the elk. Bottom line? Our rangeland is taking the hit.

In recent years, the elk have not moved off our ground at the Feely Ranch til mid May or later. Consequently they have heavily used our range, particularly hard hit have been our pastures rested for the entire previous growing season, with forage left to catch snow for spring moisture, protect the crown of the plants, and for our cattle to graze in the spring.

This past year was a good example, elk used perhaps 55 to 65 percent of the grass in some pastures, In some areas, the grass was used 85 percent, which means down to the nubs and leaving the roots exposed to the elements. This is NOT acceptable resource management, no matter what creatures are utilizing the forage. In addition to tearing down many miles of fence, in bits and pieces, each year, one of my least favorite pastimes is going around our fences in the spring, and cutting out dead elk. Or live ones. It is more pleasant to go places where there are no elk, for it is virtually a guarantee you will have grass the way you left it the previous fall, and the fences will be up. It is not like that on our ranch.

In the past 16 years I have seen a dramatic increase in the amount of elk, and the amount of TIME elk spend on our properties, (all above mentioned in BMP's). In the years I have lived on the ranch (38) it is an even more pronounced increase, in all wildlife, with the exception of muledeer.

As a rancher, range resource manager, and lifetime observer of all creatures that use this land, I have become convinced that dire consequences are ahead for the land and the people that live on it, and the wildlife themselves, if the elk numbers and are not addressed immediately.

First, the numbers are too high to sustain healthy rangelands. I have often heard the "whatever the landowner will tolerate" policy from some FWP people, that is not appropriate in my view. The land will sustain only what it is capable of, before taking a turn towards downward trend, change in types and amount of healthy vegetation and eventual loss of productivity and soil. And of course this makes the ground more fertile for the noxious weeds to become established and run rampant.

Transported by elk, weeds have come into areas that are inaccessible by anything but helicopter for weed control. Usually on the rocky knobs and bared ridges that elk love to hang out on, in the winter months, and in the spring. We have used helicopters to try to contain these problem areas, and this is costly. Weeds are a another big issue for us to deal with, and one that not many seem to understand the significance of in terms of loss of healthy vegetation.

All those responsible for dealing with wildlife, from the Department of Fish, Wildlife and Parks would be best served by monitoring the wildlife more closely and spend more time on the ground in the field, and observe for themselves the impact the elk are having, the impact the number of hunters and length of hunting season is having on the land, and the wildlife. And there need to be MORE people in the field doing this job, the wardens and local biologists are already swamped and unable to effectively cover the bases they are expected to cover.

I was told several years ago, by an FWP Official, that it was not pertinent nor possible to assess an animal unit factor to the elk herds, as the elk, to quote "eat stuff high up in the hills and mountains that nothing else eats, so it doesn't count"...this from a well respected biologist. What does this mean? Where is the fact and science in this kind of thinking?

The fact is, all critters eat a certain percentage of their body weight, figure that, and you can come up with an estimate, at least a ball park figure.

The FWP has done a stellar job in growing elk. They have done this, using all lands within the state of Montana, including private lands, to achieve this goal.

3

32

Their challenge now is to learn to manage, effectively, the elk herds. And hunting is not the solution. If it was an effective way of managing the elk, I don't believe we would have the problem we have today. It is up to the FWP to manage the wildlife that they are in charge of, as we ranchers are responsible for managing our cattle numbers, and our land. Throwing more hunters at the elk, for longer periods of time, is NOT management.

Two:

The hunting season we have to endure is a sham. Hell on the animals(including wildlife) and landowners alike.

It is like having up to thirteen weeks of company that you never know when they will show up or how long they will stay or what they will do on your property, phone calls and visits virtually any hour of the day and night, it is a constant heavy pressure, which I cannot describe with words. The pressure of wondering every minute (for thirteen weeks this year,) as to when a bullet will come by my ear again, or will be shot at my house, barns and livestock, or when fences will be cut, with people driving everywhere. It is constant, especially the fear of our family enduring bodily harm from a stray bullet. And all on our own property!!!!!!!!!!

There is the added pressure of knowing that if we do NOT allow hunting, then the elk numbers will increase even more on our land. Something must be done, but frankly, as the years have gone by and the pressure from the hunters has increased, it has made us contemplate not allowing hunting, and just enduring the elk numbers. However, we are in the cattle business, not the elk business. Elk don't pay our taxes. We do not realize an income from the elk that graze our land, and use our grass. The money from BMP is a token.

Before BMP, we always allowed hunting of our property with the same rules: parking at designated areas, and walk in hunting only, with retrieval of elk allowed by vehicle on main road. At one ranch we request people to hunt cows only, as there are few legal bulls in this herd, and it creates more of a quality hunt for those who have cow tags, and a better reduction of the herd, with less hunting pressure on the animals. This has proven to be very successful and satisfactory in the eyes of the hunters, and for us.

Hunting season is too long.

It creates unappreciative hunters. I always hear about the out of stater's (from locals. In my experience the out of state and the out of county hunters have not given us a problem, in fact, have treated us and our property with respect. Respect, that's another concept, sorely lacking in many of the hunters I come in contact with, I see a huge lack of respect for the animals they are hunting, and for the land they hunt on.

Where is the respect when someone shoots an elk as it runs by, blow a leg off, if it doesn't go down, "oh well, shoot another and leave it lay anyway, chances of the warden seeing it are slim". This is the mentality I deal with too often. There are too few wardens to police this state, and the hunters know it. And, there is always another elk coming along to shoot at, right?

There is a good core of local hunters as well. I do not want to tar all local hunters with a similar brush. But by and large, it is the locals who will take advantage, and ask me to "look the other way".

We have a long history of ignorant and scary things happening at the Famed Fleecer Hunt. Bullets whizzing by my head, livestock shot at, houses shot at, fences cut, "extra elk" shot and left, even people shot, the list is endless.

Hunting season is NOT a time of joy for us, it is a time of trepidation. Instead of looking forward to seeing old friends, who enjoy harvesting animals on our land, we have come to dread the whole situation. I for one, don't think it needs to be this way, if appropriate changes are made. It could be a win-win situation for everyone.

More Suggestions:

Have hunters choose to use either bow or rifle, if hunters had to choose, they might be a lot more "accurate" and less apt to wait for the mythical "big one", if they knew they had less options.

More hunters out there, for more time, doesn't seem to making the slightest dent in the elk numbers, the elk harvested on our ranches these past several years has been minimal.

Investigate how other states have handled their hunting seasons, and their deer and elk herds, perhaps we can learn from others mistakes and successes in that department.

Get all the wildlife biologists in this state on the same page; "fiefdom" mentality seems to rule the day in each region.

Go to a permit system, as they do in the Elkhorns. This seems to be effective, in the eyes of both biologists and hunters.

More people want a quality hunt these days, and with the general chaos that hits SW Montana every October, this is not happening, the way the hunting season is presently handled.

I often hear about 'slob' hunters being the "minority", are they really? I would disagree. It is getting to be a higher ratio all the time, some through ignorance, some through arrogance. Ignorance I can handle, arrogance is indefensible. It is not a God given right for people to hunt or go where they please in this land driving where they want and shooting as they please.

How about more regulated hunting? Ranchers are already regulated, and in terms of federal lands grazing, have been since creation of the Taylor Grazing Act in 1934. Outfitters are regulated. Could the time be coming when the "average hunter" will also face more regulation? Until the elk numbers are addressed, and handled, there will continue to be slob hunters, which creates bad press for everyone.

My suggestion, is to go in, be accountable, get an accurate count of your wildlife, and make a plan. This may mean to go in and cull out elk from areas with highest numbers, giving the meat to food banks, if necessary. Get the elk down to a manageable number. The last several years, because of the effects of the drought, many Montana ranchers have sent large numbers of cattle out of state, to try to manage their land, and to find forage for their animals. To my knowledge, no wildlife were sent anywhere. This is significant to me.

Grass, that is probably the biggest frustration I have, the grass that the elk graze. Last year, when having an assessment done by the NRCS on our property, it was determined, that to manage our range properly, including the estimated numbers of elk we now sustain, we need to be running a lot less cattle, in fact, in some areas we had exceeded our utilization BEFORE OUR COWS GOT THERE, all on our private land.

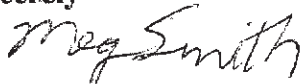
Fish Wildlife and Parks Commission, I challenge you.

They are your elk. This is my land. What are we going to do about it?

Thank you for your time.

I welcome your comments

Sincerely



Meg Smith

Smith 6 Bar S Livestock

CC: FWP Commission Chair
FWP Director, Jeff Hagener
Mike Korn
Pat Flowers
Craig Fager
Debbie Barret
Bill Tash
Diane Rice

MSCA, Pilcher

Testimony for HB 42

**Good Afternoon
Mister Chairman
Members of the Committee**

**My Name is Meg Smith
Divide Montana**

I am here to support HB 42

**I am representing myself and our ranch.
My family and I own and operate Smith 6-S Livestock,
headquartered at Glen, in southwestern Montana.**

**Our ranch provides grazing and habitat for appx 2000 head of
elk, and unknown numbers of antelope, deer, and moose. Most
of the game are on our ranches in the winter and spring, the
rest on a year around basis. The majority of our ranch is
privately owned rangeland.**

**Elk numbers have increased exponentially in the last 20 years.
Our cattle numbers have not. Thus, we are grazing the same
numbers of cattle, in addition to the elk. Bottom line?? Our
rangeland is taking the hit.**

Last year, when having a range assessment done on our ranch, by the Natural Resources Conservation Service, it was determined that to manage our rangeland properly, INCLUDING the elk numbers we provide grazing for, we need to be running a lot less cattle. In fact, in some areas, proper forage utilization was exceeded, BEFORE OUR COWS GOT THERE, all on our private property. We are in the cattle business, NOT the elk business. We do not realize an income from the elk, they do not pay our taxes and bills.

Too often I have heard, FWP officials say their wildlife management policy is “Whatever the landowners will tolerate.”

I am here today, because, our tolerance, has been exceeded.

As a range manager, rancher, and observer of wildlife, I am convinced that dire consequences are ahead for the land, the people that live on the land, and the wildlife itself, if the elk numbers are not addressed immediately.

The utilization on our range by elk is heavy. Particularly hard hit are pastures that have been rested from livestock grazing for the entire previous years growing season. We manage our rangeland using a combination of range management principles.

Resting pastures from grazing is one of these tools. Ideal utilization of grasses, in a rest rotation grazing program is 50 percent.

Elk have utilized 55 to 65 percent of the grass in some pastures, in some areas 85 percent. 85 percent means down to the nubs, leaving root crowns exposed. This is not acceptable resource management. Many miles of fence are torn down each year in bits and pieces by the elk herds.

I do not enjoy spending time cutting dead elk(or live ones) out of fences every year.

When I go places where there have been no elk, it is virtually guaranteed that grass will be there as you left it the previous fall, and the fences will be up. It is not like this on our ranches. This situation would be similar to owning a grocery store, and going in to find all the shelves empty, and torn down.

Not only has there been a dramatic increase in the numbers of elk, on our property, but also the amount of TIME they spend. I find them in areas I have never seen them before, and at times of year I have never seen them before.

This poses a question.

Is it because there are MORE elk, or, have they damaged their preferred habitat elsewhere?

Or is it both?

I was told by an FWP official, that it was neither pertinent, or possible to assess an AUM factor to elk, as they “ eat stuff high up in the hills that nothing else eats, so it doesn’t count” This is not true!!! What kind of science is that?

I would suggest that if the FWP hired Range Scientists, that type of remark would not be made. This is something the FWP should be required to do.

The FWP owns a significant amount of land. They need range scientists and timber specialists to assess the AUMS of available forage on this land, and manage it for maximum production for the wildlife.

Our land has always been open to hunting. In recent years, we have participated in the Block Management program, in an effort to better harvest the animals while managing the hunters.

However, the sheer numbers of hunters is making our life miserable, and unsafe. Three months of hunting season is too much, especially when bullets whiz by your head, equipment is vandalized, livestock are shot or shot at, houses and barns are shot at, fences are cut, EXTRA dead elk are left laying around, and people are driving off roads, creating erosion, and spreading noxious weeds.

I am between a rock and a hard spot. We have contemplated shutting off the hunting and enduring the elk, but with no hunting, the numbers increase even more, and range condition suffers. My main concern is taking good care of the land. I hope it will be of the same concern to the FWP.

Solutions:

Assess the actual numbers, assess the carrying capacity, make a plan and implement it. Get elk numbers down to a manageable number, this may mean culling the elk, giving the meat to the food banks, or institutions.

We adjust our cattle numbers on a yearly basis, dependent on range and weather conditions. The FWP can and must do the same.

Other than winter, and predators, the FWP has relied on hunters to manage the wildlife populations. It's not working. Hunters already have cheap tickets, long seasons and endless options.

This appears to have increased the amount of irresponsible, unethical, and disrespectful hunters, disrespectful of the land, and of the animals they hunt.

The FWP needs to MANAGE the hunters, in order to manage the elk, It can be done.

The FWP has done a stellar job of growing elk. They have done this using ALL lands in the state of Montana, including private land, to achieve their goals.

Their challenge is to now be accountable, take appropriate action and MANAGE the wildlife they are responsible for.

This bill, HB 42 can be a start in that direction. It would make a big difference in landowner tolerance.

Thank you for your time

I appreciate the opportunity to comment

Meg Smith

Divide Montana

EXHIBIT 5
DATE 2-4-03
HB 42

Date: February 3, 2003

To: Legislative Committee for Montana Department of Fish Wildlife and Parks

From: Kathy Kimpton

RE: Support for HB 42

HB 42 represents a measured solution to a problem that is facing many communities in Montana. Ever since the legislature allowed funding for the DFWP to be separate from the general fund, the agency has been operating with a CONFLICT OF INTEREST. Revenues are dependent upon the sale of game licenses. Consequently, game numbers have been managed to create significant increases. The increase in game numbers has resulted in damage to private property owners across the state. This damage has created a significant economic loss in some areas. Communities have repeatedly approached the DFWP to address the problem, and have not been able to get the agency to act to resolve the problem.

It has been apparent that it is not in the best financial interest of the DFWP to adjust their management to decrease the game numbers. From a cost/benefit perspective, the DFWP are receiving all the benefits while a select portion of Montana's population are being forced to cover the costs of this agency. This select portion of Montana's population is incurring an unequal portion of the costs of increased game numbers in: 1) lost forage, 2) damaged crops, 3) damaged fences, 4) lost hay, 5) damaged water developments, and 6) increased exposure to predators. The general public is experiencing an increase in damage due to 'road kills' resulting in increased repair costs, medical costs, insurance costs, etc.

If I could operate my business the way the DFWP operates theirs, my banker would love me. I could reap all the benefits while forcing an unsuspecting public to incur all the costs of supporting my livestock. This public would be powerless to stop me because I would be the only one with the resources to measure the true economic impact this arrangement was having on them. My focus would be to convince all of those people who were unaffected that this had nothing to do with economics. I would make sure that their attention was focused solely on the attributes of wildlife management. I would avoid the economic argument at all costs.

When the DFWP budget was part of the general fund, there was no reason to increase game numbers. The costs of this department was spread throughout society, as were the benefits. If there is no consequence to the DFWP for creating economic losses to society while receiving all the benefits, then it becomes the responsibility of the legislature to force regulation of the game numbers for the DFWP. Otherwise, the problem will only get worse.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN JOE BALYEAT**, on February 18, 2003 at 2:57 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Joe Balyeat, Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Michael Lange, Vice Chairman (R)
Rep. Debby Barrett (R)
Rep. Paul Clark (D)
Rep. Jill Cohenour (D)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Steven Gallus (D)
Rep. Carol Gibson (D)
Rep. Gail Gutsche (D)
Rep. Larry Jent (D)
Rep. Bob Lake (R)
Rep. Don Roberts (R)
Rep. Allen Rome (R)
Rep. Scott Sales (R)
Rep. Jim Shockley (R)
Rep. Pat Wagman (R)
Rep. Sandy Weiss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Doug Sternberg, Legislative Branch

Video-taped Committee: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society. THE TIME STAMP REPRESENTS ELAPSED TIME.

Committee Business Summary:

Hearing & Date Posted: HB 486, 1/31/03; HB 485, 1/31/03;
HB 612, 2/13/03
Executive Action: HB 42, DO PASS AS AMENDED, 11-9
HB 221, TABLED
HB 227, TABLED
HB 283, DO PASS AS AMENDED, 16-4
HB 352, POSTPONED UNTIL 2/20/03
HB 407, DO PASS, 14-6
HB 411, DO PASS AS AMENDED, 18-2
HB 439, TABLED
HB 465, DO PASS AS AMENDED, 15-5
HB 466, TABLED
HB 485, TABLED

HEARING ON HB 486

Opening Statement by Sponsor:

03:00 REP. KAUFMANN, HD 53 -- Short Title: Prohibit game or
carcass importation from areas with CWD.

Proponents' Testimony:

07:00 Robert Throssell, Montana Wildlife Federation
08:00 Charlie Johnson, Montana Bowhunters Association
11:00 Sara McCullough, Montana Audubon Society
11:00 Jeff Hagener, Department of Fish, Wildlife and Parks
EXHIBIT (fih36a01)
13:00 Aart Dolman
EXHIBIT (fih36a02)
18:00 Stan Frazier, Helena Hunters and Anglers Association

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

20:00

Closing by Sponsor:

24:00

HEARING ON HB 485

Opening Statement by Sponsor:

03:00 REP. RYAN, HD 41 -- Short Title: Allow use of
muzzleloader firearms for hunting certain animals.

Proponents' Testimony:

28:00 Stan Frazier

Opponents' Testimony:

28:00 Greg Munther, Montana Bowhunters Association

EXHIBIT(fih36a03)

Informational Testimony:

32:00 Jeff Hagener, Department of Fish, Wildlife and Parks

EXHIBIT(fih36a04)

Questions from Committee Members and Responses:

35:00

Closing by Sponsor:

41:00

HEARING ON HB 612

Opening Statement by Sponsor:

43:00 **REP. CLARK, HD 72 -- Short Title:** Management of black bears that damage beehives.

Proponents' Testimony:

45:00 Greg Munther, Montana Bowhunters Association

46:00 Sara McCullough, Montana Audubon Society

46:00 Bill Orsello

Opponents' Testimony:

47:00 Jeff Hagener, Department of Fish, Wildlife and Parks

EXHIBIT(fih36a05)

Informational Testimony: None.

Questions from Committee Members and Responses:

50:00

EXHIBIT(fih36a06)

Closing by Sponsor:

54:00

EXECUTIVE ACTION ON HB 485

Motion: **REP. GALLUS** moved that **HB 485 DO PASS.**

Substitute Motion/Vote: **REP. LAKE** made a substitute motion that **HB 485 BE TABLED. Substitute motion carried 18-2 with REPS. BARRETT and GALLUS voting no by voice vote.**

EXECUTIVE ACTION ON HB 283

Motion: REP. FUCHS moved that HB 283 DO PASS.

Motion: REP. FUCHS moved that HB 283 BE AMENDED (HB028301.ads).
EXHIBIT(fih36a07)

Discussion:

1:02:00

Vote: Motion carried unanimously by voice vote.

Motion: REP. FUCHS moved that HB 283 DO PASS AS AMENDED.

Discussion:

1:13:00

Vote: Motion carried 16-4 with REPS. COHENOUR, FACEY, GUTSCHE,
and JENT voting no by roll call vote.

EXECUTIVE ACTION ON HB 227

Motion: REP. SHOCKLEY moved that HB 227 DO PASS.

Discussion:

1:32:00

Motion/Vote: REP. SHOCKLEY moved that HB 227 BE AMENDED. Motion
carried 13-7 with REPS. COHENOUR, FACEY, GALLUS, GIBSON, GOLIE,
GUTSCHE, and WEISS voting no by voice vote.

Motion: REP. SHOCKLEY moved that SB 227 DO PASS AS AMENDED.

Motion: REP. SHOCKLEY moved that HB 227 BE AMENDED
(HB22705.ads).

Discussion:

1:41:00

Motion: REP. CLARK moved to segregate Amendment 13 of
HB22705.ads for HB 227.

Substitute Motion/Vote: REP. CLARK made a substitute motion that HB 227 BE TABLED. Substitute motion failed 10-10 with REPS. CLARK, COHENOUR, FACEY, FUCHS, GALLUS, GIBSON, GOLIE, GUTSCHE, JENT, and WEISS voting aye by roll call vote.

Discussion:

1:51:00

Motion/Vote: REP. CLARK moved to AMEND HB 227 by striking Amendment 13 of HB22705.ads. Motion carried 11-9 with REPS. CLARK, COHENOUR, FACEY, GALLUS, GIBSON, GOLIE, GUTSCHE, JENT, and WEISS voting no by roll call vote.

Motion/Vote: REP. CLARK moved that HB 227 BE AMENDED to strike revise Amendment 13 to strike 4b, 4c, 4d, and subsections 6 and 7. Motion carried 11-9 with REPS. BARRETT, COHENOUR, GIBSON, GOLIE, GUTSCHE, JENT, ROBERTS, WAGMAN, and WEISS voting no.

Motion/Vote: REP. SALES moved that HB 227 BE TABLED. Motion carried 11-9 with REPS. BALYEAT, BARRETT, EVERETT, LAKE, LANGE, ROBERTS, ROME, SHOCKLEY, and WAGMAN voting no by roll call vote.

5:14 Break

5:19 Resume

EXECUTIVE ACTION ON HB 407

Motion: REP. GUTSCHE moved that HB 407 DO PASS.

Discussion:

2:25:00

Vote: Motion carried 14-6 with REPS. BARRETT, COHENOUR, GOLIE, JENT, ROBERTS, and SALES voting no by roll call vote.

EXECUTIVE ACTION ON HB 465

Motion: REP. CLARK moved that HB 465 DO PASS.

Motion: REP. CLARK moved that HB 465 BE AMENDED.

EXHIBIT(fih36a08)

Vote: Motion carried 15-5 with REPS. COHENOUR, FACEY, GIBSON, GOLIE, and JENT voting no by voice vote.

Discussion:

2:44:00

Vote: Motion carried 15-5 with REPS. COHENOUR, FACEY, GIBSON, GOLIE, and JENT voting no by roll call vote.

5:52 p.m. Break

5:57 p.m. Resume

EXECUTIVE ACTION ON HB 466

Motion: REP. CLARK moved that HB 466 DO PASS.

Motion/Vote: REP. CLARK moved that HB 466 BE AMENDED. Motion carried 12-8 with REPS. BARRETT, COHENOUR, GIBSON, GOLIE, JENT, LAKE, ROBERTS, and ROME voting no by roll call vote.

EXHIBIT(fih36a09)

Discussion:

3:03:00

Motion/Vote: REP. CLARK moved that HB 466 DO PASS AS AMENDED. Motion failed 5-15 with REPS. CLARK, FUCHS, GUTSCHE, SALES, and WAGMAN voting aye by roll call vote.

Motion/Vote: CHAIRMAN BALLYEAT moved that the failed vote on HB 466 be reversed and the bill TABLED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 221

Motion: REP. SHOCKLEY moved that HB 221 DO PASS.

Motion/Vote: REP. JENT moved HB 221 BE TABLED. Motion carried 16-4 with REPS. GALLUS, GIBSON, GOLIE, and GUTSCHE voting no by voice vote.

EXECUTIVE ACTION ON HB 439

Motion: REP. CLARK moved that HB 439 DO PASS.

Motion/Vote: REP. FACEY moved that HB BE AMENDED to strike "the following" in line 10 and lines 14-24. Motion failed 3-17 with REPS. FACEY, JENT, and ROBERTS voting aye by roll call vote.

Motion/Vote: REP. SALES moved that HB 439 BE TABLED. Motion carried 19-1 with REP. CLARK voting no by voice vote.

EXECUTIVE ACTION ON HB 352

Motion: REP. FACEY moved that HB 352 DO PASS.

Motion/Vote: REP. BALYEAT moved that HB 352 BE AMENDED. Motion carried 18-2 with REPS. FACEY and GUTSCHE voting no by voice vote.

EXHIBIT(fih36a10)

Motion: REP. GOLIE moved that HB 352 DO PASS AS AMENDED.

Substitute Motion: REP. SALES moved that HB 352 BE AMENDED CONCEPTUALLY.

Substitute Motion: REP. GALLUS made a substitute motion that HB 352 BE AMENDED CONCEPTUALLY.

Motion/Vote: REP. LANGE moved that HB 352 BE POSTPONED. Motion carried 14-6 with REPS. CLARK, COHENOUR, FACEY, GOLIE, GUTSCHE, and WEISS voting no by roll call vote.

EXECUTIVE ACTION ON HB 42

Motion: REP. BARRETT moved that HB 42 DO PASS.

Motion/Vote: REP. BARRETT moved that HB 42 BE AMENDED. Motion carried 18-2 with REPS. GUTSCHE and JENT voting no by voice vote.
EXHIBIT(fih36a11)

Motion: REP. BARRETT moved that HB 42 DO PASS AS AMENDED.

Substitute Motion: REP. BARRETT moved that HB 42 BE AMENDED.
EXHIBIT(fih36a12)

Motion: REP. FACEY moved TO SEGREGATE SECTION 5 OF EXHIBIT 12 FOR HB 42.

Vote: Motion that HB 42 be amended to include Sections 1-4 of Exhibit 12 carried unanimously 20-0 by voice vote.

Motion: REP. BARRETT moved that HB 42 DO PASS AS AMENDED.

Motion: REP. BARRETT moved that HB 42 BE AMENDED (Section 5 of Exhibit 12).

Substitute Motion/Vote: REP. FACEY made a substitute motion that HB 42 BE AMENDED. Substitute motion carried 19-1 with REP. CLARK voting no by voice vote.

Motion: REP. ROME moved that HB 42 DO PASS AS AMENDED.

Discussion:

3:50:00

Vote: Motion passed 11-9 with REPS. CLARK, COHENOUR, FACEY, GALLUS, GIBSON, GOLIE, GUTSCHE, JENT, and WEISS voting aye by roll call vote.

7:24 p.m. Break

7:32 p.m. Return

EXECUTIVE ACTION ON HB 411

Motion: REP. GALLUS moved that HB 411 DO PASS.

Motion/Vote: REP. GALLUS moved that HB 411 BE AMENDED. Motion carried unanimously by voice vote.

Motion: REP. GALLUS moved that HB 411 DO PASS AS AMENDED.

Motion/Vote: REP. GALLUS moved HB 411 BE AMENDED. Motion carried 19-1 with REP. CLARK voting no by voice vote.

EXHIBIT(fih36a13)

Motion: REP. GALLUS moved that HB 411 DO PASS AS AMENDED.

Motion/Vote: REP. GALLUS moved that HB 411 BE AMENDED. Motion passed 12-8 with REPS. BARRETT, CLARK, EVERETT, LAKE, LANGE, SALES, WAGMAN, and WEISS voting no by roll call vote.

EXHIBIT(fih36a14)

Discussion:

3:44:00

Motion/Vote: REP. GALLUS moved that HB 411 DO PASS AS AMENDED. Motion carried 18-2 with REPS. CLARK and GUTSCHE voting no by voice vote.

ADJOURNMENT

Adjournment: 8:03 P.M.

REP. JOE BALYEAT, Chairman

KATHLEEN ELY, Secretary

JB/KE

EXHIBIT (fih36aad)

Amendments to House Bill No. 42
1st Reading Copy

Requested by Representative Debby Barrett

For the House Fish, Wildlife and Parks Committee

Prepared by Doug Sternberg
February 3, 2003 (1:53pm)

1. Page 2, line 14.

Following: "through"

Strike: "the rulemaking process and other applicable programs, a
program"

Insert: "existing wildlife management programs, necessary
actions"

2. Page 2, line 16.

Strike: "program" through "department"

Insert: "programs"

Strike: "is"

Insert: "are"

3. Page 2, line 19.

Following: "permits;"

Insert: "or"

4. Page 2, line 20.

Strike: subsection (d) in its entirety

Renumber: subsequent subsection

5. Page 3, line 3.

Following: "commission"

Strike: "may adopt"

Insert: "shall adjust existing wildlife management"

Following: "rules"

Insert: "and plans"

6. Page 3, line 4.

Strike: "that are necessary"

7. Page 3, line 5.

Strike: "In adopting"

Insert: "The department and the commission may adopt"

Following: "sustainability"
Strike: ", the"
Insert: ". The"

8. Page 3, line 6.
Following: "commission"
Strike: "district"
Insert: "region"

9. Page 3, line 7.
Insert: "(3) Any rules adopted by the department pursuant to
subsection (2) must be adopted in a timely manner."

- END -

Amendments to House Bill No. 42
1st Reading Copy

Requested by Representative Michael Lange

For the House Fish, Wildlife and Parks Committee

Prepared by Doug Sternberg
February 5, 2003 (9:06am)

1. Page 1, line 22 through line 23.

Strike: line 22 through line 23 in their entirety

2. Page 2, line 2.

Following: "affect"

Strike: "private property owners"

Insert: "Montana land"

3. Page 2, line 5.

Following: "consider"

Strike: "only"

4. Page 2, line 6.

Strike: "that is under contract with the department"

5. Page 2, line 12.

Following: "sustained."

Insert: "The department shall consider the specific concerns of private landowners when determining sustainable numbers pursuant to this section and take adequate and appropriate measures to address those concerns through the provisions of this section."

- END -

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on March 7, 2003 at 8:00
A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 42, 1/9/2003; HB 636, 2/26/2003
HB 272, 1/15/2003; HB 471,
2/24/2003;

Executive Action:

HEARING ON HB 42

Sponsor: REP. DEBBIE BARRETT, HD 34, Dillon

Proponents: Elaine Mann, Broadwater County Commissioner
Harold Blattie, MACO
Donna Sevalstad, Beaverhead County Commissioner
John Bloomquist, Montana Stockgrower's Association
Nancy Schlepp, Montana Farm Bureau Federation

Opponents: None

Informational Witnesses:

Jeff Hagener, Department of Fish, Wildlife and Parks

Opening Statement by Sponsor:

REP. DEBBIE BARRETT, HD 34, Dillon, opened on HB 42, a bill to require wildlife management in a sustainable manner. She advised the **Department of Fish, Wildlife and Parks** was created in Montana 102 years ago to restore the wildlife populations and to supervise all of the wildlife in the state. By 1933, the **Montana State Legislature** passed a bill addressing the damage done to private land by increasing elk populations. In 1943, the **Montana State Legislature** passed a bill addressing the damage done to private lands by increasing antelope populations. In 1945, the same legislation was passed for the damage done to private land by moose. In 1947, legislation was passed to address private property damage caused by the state's increasing deer populations. In 1949, the previously mentioned laws were repealed and the state legislature then passed the current game damage laws. There have been 32 pieces of legislation introduced during the last 70 years addressing the damage Montana's increasing game populations have caused and continue to cause landowners throughout the state. **EXHIBIT(fcs48a01)** She claimed the problem is worse today than ever before. HB 42 is not just another attempt to define the damage done to private land in Montana, it addresses all the land in Montana. The bill informs the **Department of Fish, Wildlife and Parks** that today's wildlife populations are too high for the land to sustain them and this is unacceptable. HB 42 states the **Department of Fish, Wildlife and Parks** must manage animals in a sustainable manner and, for the first time ever, she claimed, become good stewards of Montana's land. She worked with the **Montana Association of Counties** for over 18 months to address the game damage issue in Montana. For over 102 years, sportsmen have purchased hunting licenses in

Montana. The license money goes to managing the department. Property owners have no choice in feeding the public's wildlife. She contended this is acceptable up to a certain point, but when the landowner is no longer making a profit from his own land, something must be done. Many areas in Montana are in their fourth year of drought. Agriculture people have been responsible stewards of the land. Over a half million head of livestock left the state prior to 2002 because of the drought seeking pasture in other areas. In 2002, another 300,000 head of livestock left the state. **FWP** has steadily allowed the state's game populations to continue to increase dramatically during the same four years of drought. According to **FWP** studies, elk populations can double in size in two years under certain circumstances. She contended there had just been four years of ideal elk reproducing conditions. Overstocking and overgrazing are wrong and its just as wrong when done by a wildlife agency. HB 42 will insure **FWP** will become good stewards of Montana land.

Proponents' Testimony:

Elaine Mann, Broadwater County Commissioner, testified she belongs to **MACO** and is on three committees. One thing they discussed was economics. She presented and explained a packet of information including her written testimony, letters from ranchers and landowners and some history. **EXHIBIT (fcs48a02)** She claimed farmers and ranchers are going out of business. She asked if the state can compensate for the economic loss to those folks. She cited the loss to communities and local governments. She thought the counties would gladly pay the survey costs on the fiscal note (2) for agricultural landowners. **FWP** blames the landowners for not allowing hunting. She doesn't understand why they are closing roads for security for the animals during hunting season when the harvest is needed. Property values are lowered due to fence damage from wildlife. She cited statistics stating hunting brings in 5% of tourist dollars and fishing 4%. Other tourists come for the wide open spaces, visiting family and friends, mountains and forests. Without farm land, there won't be open spaces, she contended.

Harold Blattie, MACO, advised in times of drought, agriculture reduces herd numbers. **FWP** needs to take steps to reduce their herd numbers in these times of extreme drought. With the drought, there is less forage on public lands. These animals are relocating themselves to where the better feed is and that tends to be on the private land, especially areas that are irrigated. It is not strictly confined to irrigated lands. He referred to an article in the *Great Falls Tribune* about problems caused by antelope in Blaine County. He recalled driving around at his family ranch northwest of Billings at Christmas and seeing more

antelope than he had ever seen on the place. The numbers have exploded due to the mild winters. **FWP** responded with special hunts to try to reduce the numbers in that area. The kids on the ranch didn't feel like spending a day to stand in line for tags so they didn't get to hunt the animals they've been feeding. Antelope take bottom wire, deer take the top wire and elk just take the whole thing all at once.

Donna Sevalstad, Beaverhead County Commissioner, testified this is the right thing to do for property owners in Montana.

John Bloomquist, Montana Stockgrower's Association, advised the bill talks about assessing available habitat and sustainable populations and managing those populations within that context. He asked for passage of the bill.

Nancy Schlepp, Montana Farm Bureau Federation, stood in support of the bill. She thanked **REP. BARRETT** for bringing the bill forward. Nobody wants to see overstocked land, and that includes the wildlife component. HB 42 makes sense economically--helping to bring wildlife and domestic livestock into harmony. It isn't just a drought problem and will go on after the drought. She saw 100 elk mixed in with about 60 antelope on her land. The members of the federation drafted a resolution addressing the issue.

Opponents' Testimony: None.

Informational Testimony:

Jeff Hagener, Department of Fish, Wildlife and Parks, advised the department opposed the original bill in the House but would provide informational testimony on the amended bill as it passed out of the House. He read from written testimony.

EXHIBIT (fcs48a03) He advised they supported **REP. JOE BALYEAT'S** bill allowing for a complimentary youth license. **SEN. BILL TASH'S** SB 122 would allow individuals who are still active hunters to shoot two elk in some cases. He gave examples of problems due to un-managed private lands.

Questions from Committee Members and Responses:

SEN. EMILY STONINGTON asked what changes were made that turned his testimony from opposition to informational.

Mr. Hagener advised one of the things in the original bill requires them to assess the carrying capacity only based upon public lands and private lands that have some kind of agreement with the department. It left out all of the other private land in the state. The carrying capacity they were being asked to

assess was only looking at a small segment of where those animals spend time. They didn't think that was appropriate because they have to deal with the overall situation and not just the public lands.

SEN. STONINGTON asked where the amendment is in the bill.

Mr. Hagener replied page two, line two. Originally, it said "private property owners" and was changed to Montana land. There were other places where the language was more specific.

SEN. STONINGTON asked him to explain how new Section four on page three would work.

Mr. Hagener advised the statutory appropriation would give them the authority to utilize general license dollars for whatever measures are necessary to carry out the provisions regarding the calculation of habitat and getting numbers down by certain dates. They anticipate hunts will not be successful in a lot of cases and department time will be spent on animal control by killing animals.

SEN. STONINGTON asked if he anticipated the department going out and doing all that kill.

Mr. Hagener believed that would be necessary to bring the numbers down in many cases because they are not as successful with what they're doing with hunting. In some cases, they will still not be successful because animals will be on various refuges.

SEN. STONINGTON asked if they will be doing more helicopter population counts because of the bill.

Mr. Hagener stated its hard to do more surveys with the personnel they have. If they increase the amount of surveys and the amount of land, they will be spending quite a little more time doing it.

SEN. STONINGTON asked if he went to his subcommittee to ask for more FTEs to do this.

Mr. Hagener advised they have not.

SEN. STONINGTON inquired about page 14, lines 13-24 and page 15, line 21. She asked if the bill authorizes more non-resident hunters.

Mr. Hagener suggested asking the sponsor. It appeared additional licenses were authorized.

SEN. STONINGTON asked **REP. BARRETT** if page 15, line 21 authorizes additional non-resident licenses above the quotas in previous law.

REP. BARRETT advised it would be up to the department to implement those. It says "provided in sections 1-5 of this bill."

SEN. STONINGTON indicated in the past there has been significant debate over resident and non-resident hunters and limiting the number of non-resident hunters. The bill as she read it says if there are management provisions that need additional non-resident hunters to improve the harvest, the commission would be authorized to provide more non-resident hunting licenses.

REP. BARRETT replied it could be possible. The line begins with "or" and "if" additional licenses are needed. She stated **Director Hagener** is right; the bill does not give **FWP** any new authority. They have all of the tools they had previously. As a last resort, they could increase non-residents. This changes none of their authority for game management.

SEN. STONINGTON advised it may change their authority for non-resident license issues.

CHAIRMAN TOM ZOOK advised **Taryn Purdy, Legislative Services**, pointed out with the statutory authority, they don't have to go before a subcommittee.

SEN. STONINGTON said she was asking about authority for FTEs to do additional surveying.

SEN. JOHN COBB asked about going over 6000. Line 26 on page 15 says they still only get 6000 B-11 licenses. He asked if that is a conflict. Line 21 seems to imply they can go over that.

Mr. Hagener contended it gives them, or the commission, authority and additional licenses if authorized pursuant. There may be a conflict where it says they can't exceed the 6000 and that is a legal question.

SEN. TASH advised his game damage bill allows for both resident and non-resident. He thought the department has the authority to set those licenses whether resident or non-resident.

SEN. STONINGTON advised this is for a full combination license for bulls.

SEN. LINDA NELSON noted the bill allows for special hunts, department kills, and surveys. She asked what the bill will require the department to do that they're not doing now.

Mr. Hagener read from the bill on page two, line 26, "the department shall insure that populations of deer, elk, and antelope are at or below the sustainable population number by January 1, 2009; and evaluate the elk, deer, and antelope populations on an annual basis and provide that information to the public." At or by January 1, 2009, and thereafter, they are required to bring populations to at or below that number after that number is set.

SEN. NELSON asked if they would be doing some surveys prior to that time and then authorizing special hunts if need be. They would have to cover the whole state to assess the population.

Mr. Hagener replied the carrying capacity for elk is 200,000 for the state of Montana. They would be looking at specific areas where elk, antelope, or deer herds are. They have some areas where elk and deer populations are below acceptable levels and they would like to bring those up and other places where populations are above. If there is an outbreak of disease or if winter conditions continued for another week or two, they won't have to worry about killing a lot of animals.

SEN. NELSON asked if they do much of this already.

Mr. Hagener advised they do.

SEN. BEA MCCARTHY noted there doesn't seem to be a provision in the bill for a quick response time.

Mr. Hagener advised other statutes that deal with game damage require responding to complaints within 48 hours. They have current information about numbers of herds. When there are specific instances of game damage going on, they are reacting to that now.

SEN. MCCARTHY asked if there is a report of game damage and there is a 48 hour response time, how quickly can a hunt be called.

Mr. Hagener said depending on what kind of hunt is utilized or if its more appropriate for a kill permit, they can respond within a matter of days. For a longer term problem, they use a public drawing situation which takes about two weeks.

SEN. MCCARTHY asked if the preference is for a department kill rather than a hunt.

Mr. Hagener stated there are several circumstances where a hunt is not going to work. That is where they would be involved--in the middle of a corn field or other situations where its simply not a good place to have hunters.

SEN. ROYAL JOHNSON felt ranchers were good hunters themselves. He asked why not find a place for the meat to go, and ranchers could take care of an immediate situation.

Mr. Hagener explained they do that currently when they issue kill permits to a landowner. They have circumstances where the landowner does not want to do the killing.

SEN. JOHNSON asked **Ms. Schlepp** about the opportunity for kill permits.

Ms. Schlepp advised they had not contacted **FWP**. If that situation were to occur, they would want hunters to come in. Any meat the game warden takes goes to the food bank. She mentioned her board is in town and are excited about the bill. **FWP** is told to maximize numbers of game in their rule-making. "Sustainable" would replace "maximize" in the rules.

SEN. JOHNSON asked if animals are a problem on her ranch.

Ms. Schlepp confirmed they are.

SEN. KEITH BALES asked **Mr. Hagener** about his testimony on a bill earlier in the session that the department did not have accurate numbers and just looked at trends.

Mr. Hagener believed he testified they do not have exact numbers for every herd and every animal because its impossible to count every animal. They look at trends in areas where there are concentrations of animals during the winter or spring which gives an idea of what's happening with that population. In normal circumstances, animals are more concentrated in those areas during specific times of the year.

SEN. BALES believed an elk management plan is currently in place. There was previous testimony that elk numbers are way over those in the elk management plan in many parts of the state. He asked if that was the case.

Mr. Hagener advised they testified they are at or above objectives in 60% of the areas they identified elk numbers.

SEN. BALES asked why haven't they taken more extreme measures in the past to bring those areas that are over back into line with their own plan.

Mr. Hagener advised he could only speak for the two years he had been there. Over that two years, substantial discussions were held before the commission about liberalizing seasons. That is the direction the commission is now going.

SEN. BALES asked if the bill is an effort to give the department tools to be able to do that.

Mr. Hagener advised they have most of the tools available currently.

SEN. BALES asked if this would give them additional tools or make it clear what needs to be done.

Mr. Hagener didn't know where the bill specifically gives additional tools. He thought it gives greater emphasis to sustained numbers, tries to bring numbers closer to that and creates some deadlines.

SEN. BALES asked about the requirements for land owners regarding kill permits.

Mr. Hagener replied the first requirement is they have to allow some measure of public land to qualify under the existing statutes. Once the best method to deal with the animals is determined by the local warden or biologist, the landowner is required to kill and dress the animal and notify the department. The department takes the animal to the local food bank.

SEN. BALES asked if the landowner has to do everything. He asked if the department ever kills and dresses the animals.

Mr. Hagener advised in some circumstances they do.

SEN. TRUDY SCHMIDT asked **Mr. Hagener** to comment on rule-making.

Mr. Hagener advised in several rules it talks about maximizing numbers. He could not say what the specific language is.

SEN. SCHMIDT asked **Ms. Schlepp** about not contacting the **FWP** Commission.

Ms. Schlepp contended they allowed hunting on their ranch this year and, knowing there is a drought, hoped the problem would take care of itself. They felt **FWP** would realize there is a

problem because the animals migrate east through the Castles and the Bighorns.

CHAIRMAN TOM ZOOK asked about road closures.

Mr. Hagener advised in the cases where its federal land, it is up to the federal government to make decisions on road closures. A good part of the road closures are made for wildlife security. Management authority over those lands or **DNRC** state lands is within those agencies.

CHAIRMAN ZOOK asked where they would be involved in road closures.

Mr. Hagener advised the only place they are involved is commenting if there is a solicitation for comment about what they are doing in specific areas.

CHAIRMAN ZOOK asked about **Mr. Hagener's** testimony regarding providing fences or stack yards. He advised it had been done in his region but only to those landowners who are in block management. He asked if that was the policy of the Commission across the state.

Mr. Hagener answered there are statutes involved with game damage. The exact language is something like "public hunting opportunity or "do not do" anything that precludes hunting opportunity."

CHAIRMAN ZOOK asked if they were prevented by statute.

Mr. Hagener affirmed that is correct. For a landowner that allows no hunting, they are prevented by statute to go in and help.

SEN. ZOOK asked if he looked at the bill in terms of multiple use.

Mr. Hagener advised they are trying to balance the number of animals on the landscape with landowner tolerance. They do not have control over weather conditions or landowner permission.

CHAIRMAN ZOOK advised there is concern the bill could reduce animal units for livestock on forest lands. He asked **Mr. Bloomquist** if he saw any bugaboos.

Mr. Bloomquist said he didn't see any bugaboos there because forest block management plans are trying to balance available forage for livestock and wildlife. On forest BLM land, that is

being done anyway. The department, rather than using trends and simply looking at landowner tolerance for a sustainable level, is plugging available forage into the equation. He didn't think there would be more allocated on federal lands for wildlife than for grazing.

CHAIRMAN ZOOK advised fewer cattle mean more forage available, theoretically.

Mr. Bloomquist stated that is part of the problem in southwest Montana. The forest service looks at allotment and sets a utilization level. Elk come in and the utilization level is met and the cattle don't even go out. That is a reflection of excessive elk numbers. Cattle numbers haven't changed and have even gone down. The forage allocated is taken up by the wildlife before the livestock ever get there. Hopefully, through this bill, **FWP** will be aggressive in getting those elk numbers down to a sustainable level. Maybe this will make no difference, but he hoped it does.

CHAIRMAN ZOOK asked if the reverse might happen.

Mr. Bloomquist advised he certainly hoped not.

{Tape: 2; Side: A}

Closing by Sponsor:

REP. BARRETT closed on the bill and addressed concerns that had been expressed. Beaverhead Deer Lodge National Forest is currently going through their forest management plan. The stated they will manage wildlife in a sustainable manner from now on and not prioritize elk as they did in the eighties and nineties. The Beaverhead Deer Lodge National Forest and the BLM adopted the 1992 elk management plan, which they helped craft with **FWP**. That's what closed the lands for elk security and closed the roads. She addressed the concerns of **SEN. MCCARTHY** and **SEN. JOHNSON** about timely addressing the damage. Earlier this session there was a bill by **REP. JOHN BRUEGGEMAN** that gave property owners some license and got licenses to people quickly; the department was adamantly opposed to the bill. The stock growers had legislation regarding property owners controlling 10,000 acres or more managing the wildlife in their area. The director of **FWP** opposed the idea in the newspaper so the stock growers did not come forward with that piece of legislation. She refuted remarks made by the director and claimed the increases in wildlife had not been recent, but had been steadily increasing for 70 years. She cited statistics showing what is actually spent to address game damage. In performance audits, the

department has been informed repeatedly to take weather conditions into consideration. They have yet to address the drought, she maintained. The department is coming out with a new elk management plan and have been asked whether they would be opening up roads and public land; the department assured they would be looking at that. She acknowledged the problem with "new age" ranchers who don't allow hunting. The bill will help everybody else, she maintained. She cited various studies, management plans and performance audits. Legislators requested an audit on how **FWP** counts Montana's game populations. Counts are supposed to be annual by statute and they are not. **REP. JOE BALLYEAT'S** concern was the one region where elk numbers were declining because of the wolf reintroduction. Her concerns were all the other regions where game populations are going up. The agency has not addressed either concern, she claimed. HB 42 will insure the agency will address and correct both of those problems. The bill will benefit sportsmen, landowners, and bring good stewardship to all the land in Montana.

HEARING ON HB 636

Sponsor: GARY FORRESTER, HD 16, Billings

Proponents: Bob Gilbert, Montana Tow Truck Association
Leroy Mathews, Montana Tow Truck Association
Don Cerovski, Montana Tow Truck Association
Jim Dusenberry, President, Montana Tow Truck Association
Greg Van Horssen, State Farm Insurance
Ali Bovington, Department of Justice
Tom McGree, Milo's Towing and Repair

Opponents: None

Opening Statement by Sponsor:

GARY FORRESTER, HD 16, Billings, advised in the 1995 session, he brought a tow truck revision bill that corrected and modernized the tow truck act from 1936. HB 636 implements some changes in the rotation system and applies definitions. The bill also creates a complaint resolution committee, specifies the amount of insurance a commercial tow truck operator must carry and allows the highway patrol to charge a fee for inspection.

Proponents' Testimony:

Bob Gilbert, Montana Tow Truck Association, advised the tow truck act hadn't been touched from 1936 until 1995 when they did major revision. There are a few areas that need to be defined such as

a boom as it relates to a tow truck, setting certification or experience standards for qualified tow truck operators, and setting the same standards for individuals. The bill defines a rotation area where a qualified tow truck operator is dispatched and operates and can be called by law enforcement. Various sizes of trucks are defined by class. In 1995, non-commercially manufactured equipment was grand-fathered in that never met the engineering standards for handling a certain amount of weight. Non-commercially manufactured equipment is still allowed in the bill but it has to meet tests. Complaint resolution and issues including towing charges are handled by a complaint resolution committee. The insurance minimum is increased from \$20,000 to \$50,000. Standards are set for fence laws, inspection fees and decals. There is no fiscal note with the bill because adequate fees will be charged for inspections and decals. Meetings of the resolution committee are at no cost to the state. The bill sets up standards for rotations and requirements for signs on truck doors.

Leroy Mathews, Montana Tow Truck Association, supported the bill. They favored the door signage on the vehicles so that when the truck shows up, it is the one called for the highway patrol rotation. He advised law enforcement in his area is in favor of it and the tow truck operators are in favor of it.

Don Cerovski, Montana Tow Truck Association, spoke to the insurance requirements in the bill. In the past, there was no amount of insurance required for cargo. Requiring insurance defines things for the underwriters. The **Public Service Commission** is the agency that addresses the insurance requirements for the towing industry. His insurance carrier did not fill out certain forms properly which caused a letter to be sent to him. The bill will protect the motoring public and the interest they have in their vehicles.

Jim Dusenberry, President, Montana Tow Truck Association, advised the bill addresses problems that arose since the tow truck act was revised in 1994. The tow truck operators of Montana worked very hard on a consensus document to put before the legislature in conjunction with the **Highway Patrol** and all other affected agencies. He submitted letters from tow truckers who could not testify in person; because of the severe weather, they are busy working. **EXHIBIT(fcs48a04)** He described the new rules regarding the rotation system in the bill. He cited the efforts of the **Highway Patrol** in setting up a more fair and equitable rotation system and making it work. The association feels the small rural area tow truck operators are as important as the big ones and one business should have no more rotations than the next.

Greg Van Horssen, State Farm Insurance, stated the company supports the bill. Their input involves new Section four on page four. His client considered bringing a bill this session that addressed some disputes that have been occurring regarding charges. They knew that **Mr. Gilbert** and his association and **REP. FORRESTER** had a bill and in his mind they were in conflict. He credited **Mr. Gilbert**, the association he represents, and the sponsor of the bill. They were able to sit down together and amend the language in new Section four in a very narrow way to alleviate the conflict.

Ali Bovington, Department of Justice, advised the bill will clarify the requirements for tow truck operators who wish to participate in the statewide rotation system. The rotation system is administered by the **Highway Patrol** and these clarifications will assist the patrol in their administration and enforcement responsibilities pertaining to the rotation system. She informed the committee that the fiscal note previously submitted and prepared by the **Montana Highway Patrol** was withdrawn and there will be no fiscal impact related to HB 636. The department supports the bill and hopes the committee will as well.

Tom McGree, Milo's Towing and Repair, advised Milo's has been in business in Butte since 1957. Last spring Milo fell ill and just before his passing **Mr. McGree's** family bought the business. He pointed out the efforts of tow truck operators from all over the state. He complimented **Captain Becker, Montana Highway Patrol**, for his efforts at a Billings meeting where issues were being resolved. The bill improves the definitions of equipment and training requirements, clarifies the rotation areas for larger wreckers, certification procedures for equipment, the process by which each tow operator can serve in satellite locations, fencing requirements, and expands the complaint resolution committee. He urged support for the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 2; Side: B}

SEN. ESP asked about the fenced lot requirement for storage or security. He advised in his community, there are five or six tow truck operators and he didn't think any of them had a fenced in lot. He wondered if that is typical of small towns.

Mr. Mathews responded that in Livingston there are two tow truck operators and they both have secure fenced lots. Big Timber, in the last couple of years, has quite a few new tow truck operators for some reason. None of those tow truck operators really are up to speed with what will be required. If they are going to be on the rotation system, they will have to step up. He advised a building is also acceptable to fulfill the lot requirement to secure rotation cars when required.

SEN. ESP asked about the certification of the operators and drivers and if he thought most of the those in Big Timber are certified.

Mr. Mathews believed in Big Timber most of them are. He advised certification is something that is coming on in the industry.

SEN. ESP asked if there could be an agreement to use the county impound yard or if each individual towing company would have to provide its own yard under the bill.

Mr. Mathews advised tow truck operators can share a yard, but using the county yard would be a gray area. In Livingston, impounds are put in the county yard when they are towed. A rotation car is towed to the tow truck operators yard.

SEN. ESP asked if it is clear in the bill that a building qualifies.

Mr. Mathews thought it is. Before, a storage yard could be anything.

SEN. BALES asked about Carter County and tow trucks coming out of Belle Fourche, South Dakota.

REP. FORRESTER advised they would probably have to meet the same licensing procedure and follow the same rules of every tow truck operator in Montana.

SEN. BALES asked what provisions are made for certification and would they have to be certified within the state.

Mr. Gilbert advised out of state tow truck operators that want to work in the state of Montana will have to follow every requirement including insurance, inspections, certified drivers, and safe storage facilities.

SEN. BALES asked if any tow truck operators in North Dakota, South Dakota and Wyoming are certified by the state of Montana.

Mr. Gilbert advised there are.

SEN. MCCARTHY asked about the rotation system and if the **Highway Patrol**, or whoever is first on the scene of an accident, will inform her, as the person who had the wreck, who is going to pick up her vehicle.

Mr. Dusenberry contended they will ask her if she has a preference for towing. If she doesn't have a preference then they will call for a rotation wrecker. That is administered by the **Highway Patrol** and in some areas it is administered by an independent contractor. In Helena, it is Capital Answering Service.

SEN. MCCARTHY advised she would like her choice first and **Mr. Dusenberry** said that is the intent.

SEN. ESP asked if he broke down between Mocassin and Geyser and there was an uncertified tow truck operator in Mocassin or Geyser and a certified one in Great Falls, can the **Highway Patrol** call the uncertified person that is not on his rotation list.

Mr. Dusenberry advised if the tow truck operator is insured with the state and is for hire, the officer can call somebody closer if that is the preference. Anybody that is for hire and advertises in the Yellow Pages has to file an insurance policy with the **PSC** and be inspected. They do not have to be in the rotation to do that.

SEN. ESP asked how the **Highway Patrolman** would know and if he would have two lists.

Mr. Dusenberry replied he would not have a list. Checking a list might infer preferential treatment. If you request a name, they will call that name.

Closing by Sponsor:

REP. FORRESTER closed on the bill. He advised the rotation system was established in the previous bill and allows for the **Highway Patrol** to call the next available tow truck operator. It is a fairness system. The insurance requirements have always been there. The **Highway Patrol** will not call anyone who isn't insured. He asked for favorable consideration for the bill.

Recess - 9:45 a.m.

Reconvene - 10:12 a.m.

HEARING ON HB 272

Sponsor: KIM GILLAN, HD 11, Billings

Proponents: Harold Blattie, MACO
Charles Brooks, Yellowstone County Commissioner

Opponents: None

Opening Statement by Sponsor:

KIM GILLAN, HD 11, Billings, opened on HB 272, a bill to prohibit state offset of county payments. HB 124 altered the flow of funds between local government and the state. HB 124 was based on compromise, financial analysis and communication on how to improve the relationship and make it more efficient. The key element in play when HB 124 was enacted, was trust. Local governments trusted the money would come back when they sent their dollars to the state based on the provisions of HB 124. HB 272 is supported by local governments and particularly the **Montana Association of Counties**. The provisions in the bill on page seven and nine say that if there is a situation where there is a debt between the state and local government, the entitlements addressed in the original HB 124 cannot be used as offset. The bill has no fiscal impact.

Proponents' Testimony:

Harold Blattie, MACO, advised the bill is a policy statement by the legislature. The bill doesn't apply to any payment or taxes but only to the entitlement share. It would not allow a county to avoid paying a legitimate debt to the state. The entitlement share is not all county money. It is also money sent to the county to be distributed to special purpose districts. The bill would not let a county refuse to refund an erroneous overpayment. There was discussion the bill would allow Yellowstone County not to fulfill their obligation of repaying the additional charge for administrative costs for the **DPHHS** public assistance program and that is not the case.

Charles Brooks, Yellowstone County Commissioner, advised this is a fairness issue as far as settling disputes that might arise between the state and counties regarding HB 124. The bill does not involve the \$96,000 that **Commissioner Bill Kennedy** has been carrying in his briefcase and is owed to the state, he assured the committee. They exhausted all opportunities to not pay the \$96,000 and the bill does not deal with that issue.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. JOHNSON noted the incident of the \$96,000 was a timing situation. It was a legitimate claim, the county issued a warrant for that claim, and it is still in the commissioner's pocket. He wasn't sure it could be claimed the bill is not the result of a single incident. He asked why the \$96,000 was not in the state coffers.

Mr. Blattie advised the resolution that created the bill came from districts eight, nine and twelve in Southwestern Montana. The resolution did not come from that single incident. He didn't think it appropriate to respond on Yellowstone County's behalf. The bill would prevent the state from making an offset against the entitlement share. There are nine other counties that have not yet paid.

SEN. JOHNSON asked him to explain what action the state can take if a county acknowledges they owe the money, writes a warrant, and holds it.

Mr. Blattie advised the state can offset any other payments. The bill will simply shield the entitlement share.

SEN. JOHNSON directed the question regarding the \$96,000 to **Russ Hyatt, Department of Revenue**.

Mr. Hyatt advised he knew of no action taken by the state. The state has the authority to offset and collect any other monies that are entitled to Yellowstone County if necessary. At this point there had been no discussion to pursue that.

SEN. JOHNSON asked if he was aware of this several months ago.

Mr. Hyatt admitted he was.

SEN. JOHNSON asked how long a \$96,000 debt would be let go.

Mr. Hyatt knew of no specific criteria or time frames. He thought a concerted effort should be made to get the money from the local government.

SEN. JOHNSON advised the local government already wrote a warrant.

Mr. Hyatt stated the county fully acknowledges they owe the money to the state and the state is aware they owe the money. He

thought every effort would be made to get the issue resolved without taking legal action or using offsets--the same thing they do with any other delinquent taxpayer or customer they serve.

SEN. JOHNSON asked if he was \$96,000 short on his taxes to the state of Montana, how long would it take them to come after him.

Mr. Hyatt advised probably not very long.

{Tape: 3; Side: A}

SEN. JOHNSON asked **Mr. Brooks** to tell the committee the exact location of the \$96,000 check.

Mr. Brooks advised the committee the money involves a dispute over administrative charges from **DPHHS**. The additional fee was charged to Yellowstone County after the county prepared their budget. There is a dispute whether the county was notified prior to the preparation of the budget that the additional administrative charges were coming forward. The check was being held so they could come to this legislative session to try to get some relief. The commission's position is the charge was unfair because they received it after their budget was prepared. They sought relief through the legislative process, met with the Governor and **Mr. Chuck Swysgood, OBPP**, and they had a bill progressing through the process that has been defeated. It appeared to them they have exhausted all of the remedies and he had been assured the bill will be paid.

CHAIRMAN ZOOK asked if other counties received bills the same way as Yellowstone County. He wondered how they handled their situation.

Mr. Brooks stated there were a number of other counties. Yellowstone County had the largest charge, being the largest county. There were ten or eleven other counties and now it was down to six. They were waiting to see what would happen during the legislative process. A number of eastern counties had bills of \$1500 dollars so they paid. Since they did not get relief, those other counties are going to pay, as well as Yellowstone County.

SEN. ESP asked **Mr. Blattie** about the accuracy of how many counties had not paid.

Mr. Blattie believed it was accurate and thought it was less than ten.

Closing by Sponsor:

REP. GILLAN closed on the bill. She advised another bill that dealt specifically with Yellowstone County was defeated and one that dealt with Yellowstone County and six other counties that had not fulfilled their obligation also died. Regarding the existing statute 17-4-105, she noted the bill only addresses not allowing offset against an entitlement. All the other procedure that typically go on with offsetting debt remain intact. She stated she would provide committee members a copy of a letter she received about the Yellowstone County \$96,000 issue from **Scott Seacat, Legislative Auditor**. She re-emphasized she agreed to carry the bill because it was an issue all the counties are concerned about. There may be discussions about offsets in the future. The counties want to make sure it is a policy statement that the entitlement is preserved. The agreement of HB 124 is based on trust and the counties would like reassurance, as embodied in this bill, if there is a debt it will not be offset by the entitlement.

HEARING ON HB 471

Sponsor: REP. DAVE WANZENREID, HD 68, Missoula

Proponents:

Opponents:

Opening Statement by Sponsor:

REP. DAVE WANZENREID, HD 68, Missoula, advised HB 471 is an important piece of legislation in terms of institutionalizing the memory of those that have been working in and around the unnamed failed computer system across the street. Some very expensive mistakes have been made and it is only fair those legislators that follow learn from the mistakes made by prior legislative sessions. The bill proposes two different policy choices for the legislature to consider. The House passed the bill by an overwhelming margin and he hoped the committee would see fit to do the same. On page 1, line 27, the law being amended involves the Chief Information Officer in the **Office of Information Technology**. The bill proposes to clarify the duties assigned to that office when it comes to information systems. When information technology systems come through that office, that office has the added responsibility of estimating the useful life cycle of the asset being proposed to be acquired by the state. One of the things learned with the failed computer system at **Department of Revenue**, is there were bonds issued for a term longer than the life cycle of the asset. Had the asset worked, they would be paying those bonds after its useful life. In this case, the worst thing happened--the asset doesn't work and they

will be paying for an asset that doesn't work well beyond this legislative session. The bonds won't be paid off until the 2007 session. The bill proposes, on page three, starting at line seven, that bonds will not be issued for a period that exceeds the life cycle of the asset being acquired. He believed they would have done a better job with the bonds issued and the money received if that discipline had been built in. They would have known the useful life cycle would have been x number of years and would have issued bonds to recover the costs and pay them off within that life cycle. One of the lessons is this type of discipline needs to be applied. He pointed out the bill did not originate in the office whose duties are going to be expanded. He came up with the idea, **Brian Wolf** had the same kind of thoughts and they collaborated on the bill. He felt it spoke for the ability of the Executive Branch and the legislature to work together.

Proponents' Testimony:

Brian Wolf, Chief Information Officer, spoke in support of the bill. His responsibility is oversight of the IT systems in the state. The bill is good accounting policy. It requires the state, when estimating useful lives of systems with respect to the bond repayment, that it be done in a better way. They need to be cautious with what fits inside the bond repayment piece. As systems are planned, there are those areas of containment for expenses that are appropriate to a bonding circumstance and those which are not. He could not say that in all cases in the past the state had been as diligent as it should when it planned a system and estimated what would be HB 2 dollars or other areas of funding and what would be a bonding circumstance. It is his commitment, and that of his office, the director of the **Department of Administration**, and the state accountant **Cathy Muri**, to work collaboratively and with agencies as they plan systems in the future to do a better job of estimating the life cycles of systems and bringing that to a clear apex with the bonding. When looking at a bonding event, they will make sure they do a better job of planning those are in fact the most appropriate expenses to put inside the bonding event. They had discussions with the state's bonding counsel on the issue and she is supportive.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. STONINGTON noted they already passed a bill that **SEN. STAPLETON** carried that eliminated the unnamed computer system. She wondered about this sort of planning and commitments they may have to make in the remainder of this session with regard to bonding or any new system that might come online.

Mr. Wolf advised they have been proceeding with replacing the unnamed system. They are keeping the aspects of **REP. WANZENREID'S** bill in mind. As they are putting together the cost estimates associated with that system, it is going to include several pieces. They are recommending that unemployment insurance move back to the **Department of Labor**. There will be costs attendant to that organizationally and in IT systems. Some of that can and should be funded by federal dollars in a HB 4 amendment and some require HB 2 dollars. The areas most directly affected at the **Department of Revenue** are the wage base component and withholding and how to replace that. They are getting closer to knowing what those numbers will be and expect to have their best estimates within two weeks.

SEN. LAIBLE asked if the bondable event would include the soft costs of running parallel systems or just the hard costs of the system itself.

Mr. Wolf advised he spoke with **Ms. Muri** and they would be looking at the GASB rules about what is appropriate. If they are allowable and appropriate to a bonding circumstance that's where it will go. If not, it will potentially be amendments in HB 2.

SEN. LAIBLE asked about determining the life cycle of a system and the bonding--do they use something similar to a depreciation schedule or take a look at SABHRS and Legacy as examples.

Mr. Wolf advised there are some general industry rules of thumb. SABHRS is a product supported environment and a licensed piece of software bought from an external vendor and customized to fit the state's needs. That is a long-term event. SABHRS was bonded and has undergone two upgrades since it was initiated. Inside the life cycle of that bonding event, there are two version updates. They are going to be doing some additional research. **Dr. Joel Henry**, the computer science professor who assisted them on POINTS did an analysis on useful life cycles of software and they are going to be refining that life cycle estimate. Off the shelf software versus building it from the ground up each have a different life cycle. They will do their best to be conservative. The days of ten-year life cycle events on software are done, he contended. Five to seven years are probably appropriate. If it is an off the shelf product, it is not the same product in five or seven years.

SEN. LAIBLE asked if an annual or biannual upgrade to an off-the-shelf product would be a general fund event.

Mr. Wolf advised it would find itself eventually in the base of the agency as a part of their information technology spend and would normally be considered a maintenance process.

SEN. JOHNSON asked about the length of time of the roughly \$32 million worth of bonds that were issued.

Mr. Wolf advised the bonds for POINTS were ten year bonds.

SEN. JOHNSON asked about the interest rates.

Mr. Wolf said he knew at one time and would find out.

SEN STAPLETON thought **SEN. LAIBLE** brought up a good point and **Mr. Wolf** said they were past the era of life cycles similar to the first and second generation of computer systems. He asked if there would be any reason not to say "for a period longer than the estimated useful life of the asset, or ten years whichever is less."

Mr. Wolf indicated he would have no problem with that language.

SEN. STAPLETON thought an over-the-counter product could last twenty years and there would be a bonding obligation for twenty years. He asked for the sponsor's comment.

REP. WANZENREID felt the intent of the bill is to insure the terms of the bonds would not exceed the estimated life cycle of the asset. He understood the thinking about the wording. It is one of the few bills he was able to get out of the House. He was sure he could get that amendment approved.

SEN. STAPLETON advised his concern was his bill for the replacement system at the **Department of Revenue** has an immediate effective date and this doesn't start until July.

REP. WANZENREID said he and **Mr. Wolf** had conversations about that. He felt this is good policy with or without the statute. With the immediacy of the concerns, he felt they could apply this idea to the issuance of the bonds.

Mr. Wolf advised they were keeping this bill in mind as they look at that project and the estimates associated to it. There will be no unrealistic life cycle attached to any bond.

Closing by Sponsor:

REP. WANZENREID advised it is clear in several instances, most notably the failed system in the **Department of Revenue**, they learned some expensive lessons. They need to decide if they want to leave the lessons they learned to following legislatures. It will be a matter of time before major systems are proposed. He believed this is good public policy and found it surprising it is not in place currently. He asked for the bill to be passed and moving on to do a better job in the future.

CHAIRMAN ZOOK advised if some of the bills heard would be unanimous, he didn't see why they couldn't go ahead. They were short **SEN. COBB** and **SEN. TESTER** and he would rather not do that if there would be any objection.

SEN. MCCARTHY suggested HB 136 seemed to be a unanimous bill.

SEN. NELSON advised she had **SEN. TESTER'S** proxy.

EXECUTIVE ACTION ON HB 636

Motion: **SEN. MCCARTHY** moved that HB 636 BE CONCURRED IN.

SEN. LAIBLE asked about small communities.

CHAIRMAN ZOOK advised **SEN. ESP** asked about that and was satisfied with the answer.

SEN. LAIBLE advised his concern was it looked like it was for big communities and undue conditions for small communities.

CHAIRMAN ZOOK restated **SEN. ESP** was satisfied.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON HB 471

SEN. STAPLETON advised he would not amend the bill that was just heard because the CIO would take useful life into account. He thought it was a great bill.

Motion/Vote: **SEN. STAPLETON** moved that HB 471 BE CONCURRED IN.
Motion carried unanimously.

{Tape: 3; Side: B}

The committee held a short informal discussion.

SEN. JOHNSON advised they received a copy of the memo from **Scott Seacat, Legislative Auditor**, regarding the \$96,000.

EXHIBIT (fcs48a05)

ADJOURNMENT

Adjournment: 11:00 A.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT (fcs48aad)

Graph: Wildlife Damage to Property
 Number of Pieces of Legislation 1933-2001

STATE FINANCE AND CLAIMS
 EXHIBIT NO. 1
 DATE March 7, 2003
 BILL NO. HB 42

	'33	'35	'37	'39	'41	'43	'45	'47	'49	'51	'53	'55	'57	'59	'61	'63	'65	'67	'69	'71	'73	'75	'77	'79	'81	'83	'85	'87	'89	'91	'93	'95	'97	'99	'01	
5																																				
4																																				
3																																				
2																																				
1																																				
0																																				

Total: 32

*2003 Legislative Session
 add another 8 pieces
 of Legislation.*

MARCH 7, 2003

SENATE FINANCE COMMITTEE

HB 42

Depredation – How much can the landowners afford to lose? Continues year after year.

I began my commission position in 2001. By the spring the landowners were talking about wildlife #'s. We set up a meeting to understand the problem they were facing. There were approx. 33 landowners at this meeting. Crop damage, stack damage and fence damage were some of the complaints. I was asked to attend the FWP Commission Meeting to explain the situation.

At the FWP C. Mtg. I was told this was an every year occurrence, coming and complaining, especially when someone was newly elected. County officials are elected on 6 yr. terms. The QUESTION is: Are they working with the landowners, I haven't seen it?

After this mtg., I called Senator Grimes to ask for help. "I took care of that issue years ago" I replied did you follow up "NO". He assumed that his appearance & making a statement was all that was needed. So had hundreds of other citizens all over the STATE year after year, this is why the issue continues. On Aug. 3, 01 there were 2 House Reps & 1 Senator attending the meeting, a letter followed their attendance. That letter stated "wildlife population objectives are dependent upon property owners' tolerance & Mt.'s abundant wildlife... it should come as no surprise, that the property owners' tolerance ran out years ago & that after 3 yrs. of drought their habitat is disappearing too."

One of the reasons I am here today is ECONOMICS! This is the real issue ECONOMICS!

Example:

- 1) Dairy hay producer – (field 1) 1st cutting 60T alfalfa, 2nd cutting after damage 30T. Wildlife (antelope, deer & elk).

How can our agriculture producers continue to take this kind of hit year after year?

- 2) Gallatin Valley Certified weed free fields are taking the same kind of hits.
- 3) Grain field, so damaged they had to change the crop to certified straw. \$\$\$\$
- 4) Field being eaten by deer, hay stack being eaten by deer, truck load of hay to dairy, stack at dairy farm eaten by deer.
- 5) Fergus Co. Wicks farm – 200 deer on a regular basis eating crops.
- 6) Citizens have satellite dishes, gardens, fruit trees & etc. around their houses damaged or destroyed by deer.
- 7) Road kill – Vehicle damage, insurance costs, medical bills etc.
- 8) Water developments – Private land – Stock tanks (lamas, horses, cattle etc.) damage to tanks, emptied by wildlife (enlarged \$ or refilled by delivery \$).

This is happening in every county, to multiple of farmers & ranchers, all over the STATE.

ARE YOU AS CONCERNED AS I AM?

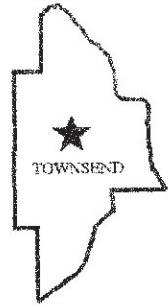
Why is agriculture losing \$\$\$? This is lost tax revenue. Counties have reported farmers & ranchers not paying their property taxes. This is one piece of the pie chart, has anyone figured out how big this piece is?

I have talked with the special interest groups, they could help, but won't. They would like to see all the farmers' gone & only wildlife and wilderness remain.

BROADWATER COUNTY
Board of County Commissioners

District 3 Office 266-3131, Fax 406-266-3110
290 KIMPTON UPPER LANE
TOSTON, MONTANA 59643

COMMISSIONER:
DISTRICT 3 -- ELAINE M. MANN



March 07, 2003

Honorable Senate Finance Committee Members,

I cannot stress enough why our Agriculture Committee through MACO was committed to this Resolution turned HB42. All of the voting members of our 56 counties voted yes! We need representation in a form of a law. Our citizens were getting nowhere with the State Dept. of FWP. Each State Department should be working for the citizens of Montana, not outside interest and especially not planted insiders from special interest groups. Any State Department should not have it very own agenda. Each State Department has a specific purpose and should not be acting outside of those parameters. They should be in control and controlled by Statute under State Government by the people and for the people. In this particular case Montana citizens, true Montana citizens, not special interest under the disguise of saving us from ourselves.

I hope reading this fax will help you understand why our Agriculture community in the state is condemned and losing money. That money is MONTANA STATE tax dollars that travel around a community then travel around the STATE. The big picture should be standing out like a sore thumb.

Thank you from the citizens, of not only Broadwater County but all 56 counties in the State.

Sincerely,

Elaine Mann, Broadwater County Commissioner, District 3

Cc: Kathy Bessette, Chair of MACO Agriculture Committee



yellowstone to the yukon

AN INTERNATIONAL CONSERVATION STRATEGY

The wild land corridor that reaches from Yellowstone National Park to Canada's Yukon (Y2Y) is the focus a wide range of conservation and environmental groups. The ethic of conservation participation that we advocate across the nation we also practice personally and locally. Orion staff and members were active in early 2001 addressing critical fish, wildlife and habitat issues in the Y2Y corridor. The current focus is on local forest management plans and an expected confrontation over oil and gas leasing on the Rocky Mountain Front. Of continuing interest during 2001 are U.S. Forest Service plans for a local area known as Clancy - Unionville. This particular unit contains a vital wildlife movement connection within the Y2Y network. The planning process, supported by local activists (Clancy-Unionville Task Force, the Montana Wilderness Association and Orion) now includes: closure of 91 miles of off road vehicle use and designation of substantial areas as non-motorized to enhance wildlife habitat security, and hunting opportunity.

As part of the effort to stimulate the conservation ethic and activism of hunters and anglers in the corridor, Orion has developed and continues to present a conservation heritage program and lecture series. This program is coordinated through the Montana Wildlife Federation and delivered to affiliated clubs and other groups.

In addition to working within the corridor itself Orion has participated in coalition building discussions with The Wilderness Society. Orion staff has appeared at the Northwest Wilderness and Parks conference in Seattle, and Orion board member Gayle Joslin met with The Wilderness Society's governing council in Washington

D.C. in April. The objective of these efforts is to facilitate the inclusion of hunters in wild land protection coalitions

The Montana State Trails Grant Program passed a critical test in May of 2001 when it was signed by the Montana Department of Fish, Wildlife & Parks Director. The granting program's design had been worked on for years to direct these funds away for motorized uses that threatened habitat security on public lands. The effort to modify the granting program was largely carried on by an Orion board member inside the Department of Fish, Wildlife and Parks. Outside pressure was also supplied by local Orion members working in a coordinated effort with the Montana Wildlife Federation and the Montana Wilderness Association. A last minute effort to scuttle the plan was launched by motorized groups working through the Governor's office. They succeeded in delaying the director's signature, however, a timely, quiet and determined response generated by local conservation groups thwarted that effort and the plan is now official. The grant program will now emphasize urban connections, non-motorized trails, reclamation of previous damage and other uses in a favorable balance. This grant program had the potential to do considerable environmental and ecological damage before its considerable modification.

During 2001, Orion entered another project with direct Y2Y implications. **Ten Mile Creek** drains the Continental Divide west of Helena and south of McDonald Pass. The 'corridor' here is a narrow band of public lands split by Highway 12, subdivisions, and timber sales. It is an 'Achilles Heal' of a contiguous corridor between Glacier and Yellowstone Parks getting little attention from the corridor conservation community.

Date: February 3, 2003

To: Legislative Committee for Montana Department of Fish Wildlife and Parks

From: Kathy Kimpton

RE: Support for HB 42

HB 42 represents a measured solution to a problem that is facing many communities in Montana. Ever since the legislature allowed funding for the DFWP to be separate from the general fund, the agency has been operating with a CONFLICT OF INTEREST. Revenues are dependent upon the sale of game licenses. Consequently, game numbers have been managed to create significant increases. The increase in game numbers has resulted in damage to private property owners across the state. This damage has created a significant economic loss in some areas. Communities have repeatedly approached the DFWP to address the problem, and have not been able to get the agency to act to resolve the problem.

It has been apparent that it is not in the best financial interest of the DFWP to adjust their management to decrease the game numbers. From a cost/benefit perspective, the DFWP are receiving all the benefits while a select portion of Montana's population are being forced to cover the costs of this agency. This select portion of Montana's population is incurring an unequal portion of the costs of increased game numbers in: 1) lost forage, 2) damaged crops, 3) damaged fences, 4) lost hay, 5) damaged water developments, and 6) increased exposure to predators. The general public is experiencing an increase in damage due to 'road kills' resulting in increased repair costs, medical costs, insurance costs, etc.

If I could operate my business the way the DFWP operates theirs, my banker would love me. I could reap all the benefits while forcing an unsuspecting public to incur all the costs of supporting my livestock. This public would be powerless to stop me because I would be the only one with the resources to measure the true economic impact this arrangement was having on them. My focus would be to convince all of those people who were unaffected that this had nothing to do with economics. I would make sure that their attention was focused solely on the attributes of wildlife management. I would avoid the economic argument at all costs.

When the DFWP budget was part of the general fund, there was no reason to increase game numbers. The costs of this department was spread throughout society, as were the benefits. If there is no consequence to the DFWP for creating economic losses to society while receiving all the benefits, then it becomes the responsibility of the legislature to force regulation of the game numbers for the DFWP. Otherwise, the problem will only get worse.

Emann@onewest.net

From: "Vito Quatraro" <vrq@lpamt.com>
To: "Elaine Mann" <emann@onewest.net>
Sent: Sunday, January 02, 2000 4:25 AM
Subject: Re: HB42

CHAIRS
HUNTING GROUP

Elaine:

My office number is 586-1130.

Vito

----- Original Message -----

From: Elaine Mann
To: vrq@lpamt.com
Sent: Friday, February 07, 2003 10:22 AM
Subject: HB42

Vito,

Hello, I believe we met at the FWP Commission mtg..

Our agriculture committee out of MACO (association of counties), presented a resolution that turned into HB42. Montana's ag. community is being inundated with the over objective population of wildlife (deer, antelope, elk) from FWP. We have repeatedly tried to discuss this issue with them, it only concerns private land. The ag. community is not trying to get rid of hunting. In fact they are trying to increase hunting. Our landowners will be willing participants with hunters. We have farmers that their crops are being eaten and damaged, this is an economic issue. They cannot afford a hit like this year after year. Absolutely none of our farmers dislike wildlife and most hunt with their children and grandchildren. My district farmers all allow hunting except MR. Turner. I would really like to understand your feelings from the hunters point of view. Some amendment changes have been made to HB42.

Sincerely,

Elaine Mann, Broadwater County Commissioner, Dist.3

2/8/2003

February 3, 2003

Fish, Wildlife and Parks Committee
Montana House of Representatives

RE: HB42

The population of elk, deer and antelope in Montana is increasing.

The Montana Department of Fish, Wildlife and Parks should be made to keep the population of these species at a reasonable level: low enough to not cause damage to crops or pastures in good years and to not be burdensome in drought years.

My problem is in District 380 and the Elkhorn Mountains where the elk population has been allowed to increase and now they forage beyond their normal range. For the past 20 years the animals have been eating and bedding in alfalfa and grain fields before harvest and eating private livestock pastures early in the fall or in the springtime before livestock are turned in.

HB 42 would help control this situation. Please vote for HB42.

A handwritten signature in cursive script, reading "Thomas J. Williams".

Thomas J Williams, Rancher
48 Highway 437
Toston, MT 59643-9736
406-266-5760

July 30, 2001

Montana Fish, Wildlife & Parks Commission
930 West Custer Avenue West
Helena, MT 59620

Dear Commissioner Lane, Mulligan, Lane, Dascher, Walker, Hagener,

Topic: Elk population in Districts 380, 390, 391, 392.

Under advisement from the Commission during our meeting on June 7, a joint meeting of FWP personnel, landowners, sportsmen and Forest Service personnel was held June 13 to discuss the elk population and its' impact on Broadwater County.

The information sheets filled out by ranchers and farmers show a year round problem. The highest degree of private ground damage occurs in early spring and late fall. All crops were affected (barley, oats, wheat, alfalfa, grass, crp & etc.). A few of the ranchers also had damage at watering areas. The destruction of fences surrounding crop fields was a big issue because of elk travel. The downed fences gave access to neighboring cattle as well. This happened on private and public ground causing unwarranted blame to cattle.

The farmers and ranchers of Broadwater County would like you to take action in the following ways:

- 1.) Successive years of drought have rendered forage grasses unable to replenish themselves at normal production levels. We feel that cutting the elk herd, combined with current cutbacks in cattle grazing, would be a fair method of providing the range time to restore itself to a healthy state. We agree with the Forest Service on having the elk population number decreased. Our suggestion would be between 800 to 1000 for a few years to rest the Elkhorn rangeland.
- 2.) Damage hunts to help reduce the numbers on impacted farms and ranches.
- 3.) To establish a reserve pool of tags for damage hunts to allow flexibility across mountain ranges.
- 4.) To investigate hunting tags used in other states, to individual ranches and farms that are impacted. (See article a rancher has submitted)

We would like to thank the commission for taking the time to reconsider this issue on quotas.

Sincerely,

Broadwater County Landowners

June 13, 2001

Fish, Wildlife and Parks
P.O. Box 200701
Helena, MT 59620

To Whom It May Concern:

We own approximately 1400 acres of pasture land next to the Elkhorns about 6 miles west of Winston.

We have watched the elk herd increase in this area and now pasture about 250 head of elk, which we have counted and photographed.

We believe in leaving some grass each year and are very careful not to over graze but this is difficult when you have a herd of elk of this size entering whenever they wish.

We have allowed open hunting every hunting season at no cost to the sportsman to help down size this herd, but fail to see it diminish in size.

We are trying to make a living by renting this land to cattle in the summer. We have to cut down the amount we take in when the elk graze and keep our percentage of grass lower.

The damage to the fences is becoming costly to contract the repair annually and has been an ongoing problem.

It would help if you would give us some branch antler permits each year and we would be allowed to sell them. This would help with our annual expenses and hopefully down size the herd to keep our land from being overgrazed.

Our neighbor has turned his ranch into a development and we can see more of this coming in the future. We would like to keep ours in agriculture with a herd that is manageable.

This continues to be a problem and we would appreciate some help.

Sincerely,

A handwritten signature in cursive script that reads "Bob & Gay Ann Masolo". The signature is written in dark ink and is positioned above the printed name.

Bob and Gay Ann Masolo

House Bill 42
March 7, 2003
Presented by Jeff Hagener
Senate Finance & Claims Committee

Mr. Chairman and committee members, I am Jeff Hagener, Director of Montana Fish, Wildlife & Parks (FWP). FWP opposed House Bill 42 in its original form. I am here to provide informational testimony on the amended bill that passed the House.

I believe we understand, and appreciate, the sponsor's frustration over recent increases in game damage, especially that caused by elk. Although deer and antelope numbers in most areas are not excessive, elk numbers are above our objectives in many management units and we are seeing elk in places they have not occurred for many years. Some landowners are suffering impacts that include damaged fences, loss of forage for livestock and crop depredation.

FWP is actively working to address these impacts. We spend over \$379,000 per year assisting landowners, who allow public hunting, with game damage. Our Wardens spend over 4,000 hours each year responding to game damage calls. We hold special game damage hunts on a regular basis. We extend seasons when necessary, hire herders to move elk off private land, fence stack yards and take numerous other actions to help landowners deal with the impacts of elk, deer and antelope.

We recognize that these are largely "re-active" measures and agree with the sponsor of HB 42 that we should be "proactive" whenever we can to head off game damage. Being proactive, however, will require more than simply revising our management objectives. It will also require increasing our elk harvest.

Unfortunately, elk harvests have been declining in recent years, even with lots of elk in the country. There are several reasons for this, and it is important to look at these before making a decision on whether or not HB 42 will provide additional relief.

First, warm temperatures and late snows associated with recent drought years allow elk to remain in high elevation habitat throughout the general season. This reduces hunter success. We are addressing this by extending seasons later into the winter in more areas or opening special game damage hunts when snow finally does force elk down onto accessible lands. We have also established extended, either sex elk hunts in places like the Hi-Line where elk are pioneering into agricultural areas.

Second, the number of elk hunters has declined in recent years. Surveys of former hunters who no longer purchase licenses indicate there are two main reasons why they quit hunting. One is "other demands on their time." As hunters age, family commitments and other interests appear to be taking time away from hunting. We are addressing this problem through Senate Bill 122, which would allow those individuals who are still active elk hunters to take more antlerless elk.

The other reason given for quitting elk hunting is lack of access to places to hunt elk. Historically, most private lands were open to public hunting, and we were able to achieve harvest levels adequate to control elk numbers. Increasingly, private lands are being closed to the general hunter. This may be due to a landowner leasing to an outfitter to offset the economic impacts of the drought or low cattle market or simply because he is tired of dealing with hunters.

In other cases, it's due to a new-age landowner – often from out of state – who buys a “piece of heaven” in Montana as an exclusive playground for family and friends. Frequently, these new landowners do not need to manage their lands for livestock, and many are unaware of the consequences of closing their lands to hunting. The problem with these closed ranches is that the elk learn very quickly where the “sanctuaries” are. They hole up on these lands during the day, or all season long, only to hop – or run through – the fences as soon as the hunters are gone.

To address these problems, we are working to bring together the whole community of landowners within an elk herd's range to reach agreement on how many elk there should be in an area, and how hunting can be managed – and access provided – to harvest the number of elk, deer or antelope necessary to keep herd within objective ranges. There are several examples where this approach is working. The Devil's Kitchen working group in Cascade County is one. Discussions among The Elkhorns Working Group and the Madison Valley Ranchlands Group are others. We have requested additional funding for the biennium from the Appropriations Committee to expand these efforts into other areas.

I believe we are already doing much of what HB 42, as amended, calls on us to do. The planning processes called for would require additional effort and expense for deer and antelope, but for elk we are already updating our management plan with extensive involvement of landowners and the public at large.

The major change from existing law or practice reflected in HB 42, as amended, is that this bill statutorily appropriates funding for elk, deer and antelope management and game damage. This would take a significant amount of FWP's wildlife program “off budget” thus giving us greater flexibility to implement these programs. However, as Director, I would still have to balance expenditures for these programs against the need to manage the department's general license account balance in consideration of public and legislative support for license fee increases.

In conclusion, we do not believe there are significant, new requirements in HB 42, as amended, but the bill would give the agency greater flexibility, with reduced legislative oversight of FWP's budget.

HB42

I am a cattle rancher from Broadwater County in Montana. Exactly one week and one day after the WTC attack, our local USFS office in Townsend, Montana presented us with a contract that reduced our permitted allotment by 23%. We had to sign it or lose our allotment. If we could, we would move our operation to private land, except that over 87% of the land in our county is owned by the Federal Government. There is no where else to go. This is the case in many rural counties in the western US. My neighbors have experienced cuts as high as 50%. This is consistent with what is happening all over the west. Some people within our Federal land management agencies, under the direction of various conservation and environmental groups, have worked together aggressively to restrict our production. One of the environmental leaders was quoted in *Range Magazine* as saying, "the objective needs to be the control and restriction of agriculture to as little of the landscape as possible." The primary funding for these conservation and environmental groups are foundations who have invested heavily in foreign resource production; including food production. Essentially, American producers have become the competition to be eliminated. For the sake of their profits, America is sacrificing it's domestic food production system. The average income for agriculturalists in Montana for the last five years was \$6,738, using ag census data. Last year, half of that came from the Federal government. As income in ag goes, Montana's is higher than many western states. In addition, NAFTA and other trade deals are devastating our domestic food production industry. We are literally an industry on the brink. Next year, there won't be any Federal monies to keep us in business. At a time when this country is engaged in a long term war, it does not make sense to support policies or groups who are aggressively working to put the agricultural industry out of business. Do you think that it is important to be able to support our population with our own production? If you do, then you have a duty to say so. Our cries for common sense have fallen on deaf ears. The integrity of the food crossing our borders needs to be as scrutinized as the integrity of some people crossing our borders. Because of current policy and the aggressiveness of various conservation and environmental groups, we are quickly becoming dependent upon foreigners for our food supply. If things don't change, and change quickly, myself and my neighbors won't be in business much longer. We'll be standing in the food lines with you.

Legislative Fiscal Analyst *Game Damage* *FY 2000* Expenditures By Agency, Organization

*\$ 45,000
crop*

		Total Expended	% of Total
52010	Dept. of Fish, Wildlife & Parks	343,222.69	
2111	R-1 GAME DAMAGE	26,403.88	7.69%
211101	Bears/Lions	17,300.05	5.04%
211103	Beehive/Bears	5.00	0.00%
211104	Other	204.11	0.06%
2211	R-2 GAME DAMAGE	50,640.31	14.75%
221101	Bears/Lions	975.00	0.28%
221103	Beehive/Bears	1,494.55	0.44%
2311	R-3 GAME DAMAGE	41,285.03	12.03%
231101	Bears/Lions	1,778.00	0.52%
231102	Wildlife Crop Damage	2,426.09	0.71%
231104	Other	730.32	0.21%
2411	R-4 GAME DAMAGE	47,990.62	13.98%
241101	Bears/Lions	40.54	0.01%
241102	Wildlife Crop Damage	12,680.43	3.69%
241103	Beehive/Bears	1,680.80	0.49%
241104	Other	848.45	0.25%
2511	R-5 GAME DAMAGE	5,851.45	1.70%
251101	Bears/Lions	1,282.90	0.37%
251102	Wildlife Crop Damage	31,544.96	9.19%
251103	Beehive/Bears	3,647.10	1.06%
251104	Other	24.72	0.01%
2611	R-6 GAME DAMAGE	35,164.49	10.25%
2711	R-7 GAME DAMAGE	41,329.86	12.04%
2811	GAME DAMAGE	17,894.03	5.21%

< drought management - > *space handled*
seen all rats

leg - res - bird hunting & mt
leg res mt lions 1 -

→

had of end paper to grade

in committee
the am

Legislative Fiscal Analyst

Expenditures By Agency, Organization

Game Damage

Fy 2001

\$ 46,000

		Total Expended	% of Total
52010	Dept. of Fish, Wildlife & Parks	394,020.18	
2111	R-1 GAME DAMAGE	16,409.41	4.16%
211101	Bears/Lions	24,463.64	6.21%
211102	Wildlife Crop Damage	58.98	0.01%
211103	Beehive/Bears	5.00	0.00%
211104	Other	2,520.00	0.64%
2211	R-2 GAME DAMAGE	58,075.92	14.74%
221103	Beehive/Bears	363.68	0.09%
2311	R-3 GAME DAMAGE	74,951.56	19.02%
231101	Bears/Lions	1,260.89	0.32%
231102	Wildlife Crop Damage	2,310.41	0.59%
231104	Other	2,012.95	0.51%
2411	R-4 GAME DAMAGE	40,209.73	10.20%
241101	Bears/Lions	1,063.10	0.27%
241102	Wildlife Crop Damage	15,161.86	3.85%
241103	Beehive/Bears	398.00	0.10%
2511	R-5 GAME DAMAGE	9,168.98	2.33%
251101	Bears/Lions	698.72	0.18%
251102	Wildlife Crop Damage	29,610.81	7.52%
251103	Beehive/Bears	337.74	0.09%
251104	Other	300.42	0.08%
2611	R-6 GAME DAMAGE	38,688.84	9.82%
2711	R-7 GAME DAMAGE	42,704.39	10.84%
2811	GAME DAMAGE	33,245.15	8.44%

Legislative Fiscal Analyst

Expenditures By Agency, Organization

Game Damage

Fy 2002

\$61,000

		Total Expended	% of Total
52010	Dept. of Fish, Wildlife & Parks	336,735.46	
2111	R-1 GAME DAMAGE	0.00	0.00%
211101	Bears/Lions	0.00	0.00%
2211	R-2 GAME DAMAGE	38,204.66	11.35%
221101	Bears/Lions	3,140.53	0.93%
221102	Wildlife Crop Damage	26,635.41	7.91%
221103	Beehive/Bears	5,577.81	1.66%
2311	R-3 GAME DAMAGE	55,386.97	16.45%
231101	Bears/Lions	4,865.36	1.44%
231102	Wildlife Crop Damage	2,220.51	0.66%
231104	Other	297.68	0.09%
2411	R-4 GAME DAMAGE	57,709.29	17.14%
241101	Bears/Lions	976.06	0.29%
241102	Wildlife Crop Damage	3,857.15	1.15%
241103	Beehive/Bears	1,583.73	0.47%
241104	Other	108.90	0.03%
2511	R-5 GAME DAMAGE	8,314.25	2.47%
251101	Bears/Lions	1,175.52	0.35%
251102	Wildlife Crop Damage	28,774.35	8.55%
251103	Beehive/Bears	1,399.31	0.42%
251104	Other	440.64	0.13%
2611	R-6 GAME DAMAGE	38,276.04	11.37%
261102	Wildlife Crop Damage	12.00	0.00%
2711	R-7 GAME DAMAGE	44,231.96	13.14%
2811	GAME DAMAGE	13,547.33	4.02%

1 year ago
691 address damage in a timely manner -
rancher or farmer to issue licenses -
Rep John Bergman - Had a house bill to
address Sen McCarthy's concerns -
the agency opposed his bill -

Legislative Fiscal Division
Expenditures By Agency, Fund

Game Damage
FY 2002

		Total Expended	% of Total
52010	Dept. of Fish, Wildlife & Parks	336,735.46	
02409	General License	336,735.46	100.00%

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on March 12, 2003 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 359, 2/24/2003
Executive Action: HB 152; HB 42; HB 158; HB 679; HB
272; HB 597; HB 359

CHAIRMAN TOM ZOOK advised there had been a problem with notice posting the previous day. There was some confusion and people who wanted to testify would be given an opportunity. The hearing on **HB 359** would be re-opened.

HEARING ON HB 359

Sponsor: **REP. KATHLEEN GALVIN-HALCRO**

Proponents: **Dr. Richard Sargent**

Opponents: **None**

Opening Statement by Sponsor:

REP. KATHLEEN GALVIN-HALCRO, stated the bill would provide employee rest periods. There is a need for human decency in the workplace and this is a health care issue. In the previous hearing there was concern about the list of calls from the **Department of Labor**. She hoped the committee members had contacted workplaces in their districts to see what policies and procedures they had in place.

Proponents' Testimony:

Dr. Richard Sargent stated laws are passed so people without manners will treat others with respect. This bill is aimed at a few who don't respect the needs and dignity of their staff. When the health center where he works opened, it took about three weeks before they started seeing an influx of people who were absolutely at the end of their ropes. They could identify the employer before they went to see the patient and just about predict the dose of Prozac they would need. Notes from the doctor were necessary to prove patients were sick. If employee's children were sick, parent's were expected to be on the job. The doctors tried writing letters, making phone calls, and working with health insurance carriers. With the company he is most familiar with, employees attempt to hang on to keep benefits but they end up leaving or getting fired because every keystroke on their computer is monitored. If they're not busy for over 30 seconds, they get another call shifted their way. If they don't answer that call in fifteen seconds, a supervisor arrives at their desk to find out why they didn't answer that call rapidly. If they aren't at their desk, they have to explain where they were. These people work in a customer service department and have a sales quota to make. If they don't make the sales quota, they get fired. When a customer calls with a problem with a bill or service, their job is to sell more services. The bill is not about the average employer. A waitress might be expected to

delay her break until after a rush comes through. This is not about a reasonable employer who would allow a parent to go home to a sick child. It is not about a responsible employer who expects and gets a days work for a day's pay. He has three good employees and he takes care of those employees and their families. One of his employees has a spouse that works at this call center. Every time their child is sick, his office will work short handed. He finds that an affront to himself and to decency because they are taking advantage of someone who will be decent so they don't have to make accommodations. They run their business at 100% capacity. Human beings work better if they are allowed to take breaks.

Opponents' Testimony:

Questions from Committee Members and Responses:

CHAIRMAN ZOOK asked if **Dr. Sargent** is an MD.

Dr. Sargent replied yes.

SEN. JOHN ESP asked about the letter from the president of Qwest, Rick Hays. He asked if the testimony was referring to the Qwest call center.

Dr. Sargent advised he was told not to name names, but that is who he was talking about.

SEN. ESP quoted from the letter and asked if it was his testimony those folks aren't getting those breaks.

Dr. Sargent replied yes. Those breaks are rigidly scheduled and if the call of nature arrives early, you are expected to sit.

SEN. ESP noted the bill would require a ten minute break in the middle of a four-hour period. He asked how that is any better than a fifteen minute break after two hours.

REP. GALVIN-HALCRO answered she worked for this same company for 22 years. It is bargained for by more than one IBEW local and more than one PWA local. She had not seen the letter. There is more than one union contract that is supposed to protect those workers. There could be a supervisor in place or more than one, that doesn't adhere to the policy that's in place. If there is something in statute, the **Department of Labor** can step in. Those folks opposed to the bill initially wanted to put some teeth in it. The amendments on the bill came from the restaurant, retail

and NFIB lobbyists, not from her. They wanted to make sure there would be something to adhere to.

SEN. ESP thought filing a grievance process within the collective bargaining process would address the break issue.

REP. GALVIN-HALCRO said that should be true. In her experience, if someone were to have a problem, they would file a grievance and the situation would be taken care of for a time, but often things would regress. Complaints about an employee are put into their file and an employee knows suspension and firing are possible. People are afraid to complain for fear of losing their jobs.

SEN. BILL TASH asked about prescribing Prozac and wondered if that is an antidepressant.

Dr. Sargent indicated it is.

SEN. TASH asked if his practice is in a specialty.

Dr. Sargent said he is a practitioner.

SEN. COREY STAPLETON advised they often see these types of bills that are talking about one company or event. The reason they discard those types of legislation is those issues are best handled at the local level. He never heard this issue come up during campaigning, and this is the first he heard of this as a problem. The company being talked about is a unionized company in Helena. He asked **REP. GALVIN-HALCRO** if she tried to deal with this at the city level.

REP. GALVIN-HALCRO advised she currently teaches school in Great Falls and has not worked for this company in more than ten years. She had no problem when she worked for this company for 22 years. It was only after this bill was brought forward that they heard from people who work for this company. This wasn't an issue brought to her by folks from this company initially. This bill came forward in the 2001 session from some concerns from people in Great Falls. The bill passed the House and came to the **Business and Labor Committee** in the Senate. It was tabled without discussion. Over the interim, because she was on the **Business and Labor Economic Development Committee**, she asked **SEN. DALE MAHLUM** if they could have the **Department of Labor** look at the situation. She had received emails from a number of folks throughout the state. The **Department of Labor** said they receive over a thousand calls a year from folks throughout the state who are experiencing these problems. She didn't ask the department to do a survey, these were calls that have always been coming to

the department. **Gene Fenderson** testified his wife, former **SEN. SUE BARTLETT**, carried a similar bill in a previous session. She had been unaware of that until his testimony. She thought it would be wonderful if they could take care of everything at the local level. The bill has no mischief. There are folks who are not being treated right. There are 37 other states who provide this type of legislation.

SEN. STAPLETON asked if the answer is no.

REP. GALVIN-HALCRO said that is correct.

SEN. RICK LAIBLE asked about previous testimony regarding not being able to take a bathroom break and the amount of urinary tract infections that resulted. He asked about prescribing Prozac, and if the doctor is seeing mostly stress problems.

Dr. Sargent replied in the torrent of urinary tract infections, he can't pick out the ones that are due to not being able to use the bathroom on time. They probably treat three to four urinary tract infections a day. The reason for the use of Prozac is for stress.

SEN. LAIBLE asked if most clients that work at this company are worker's comp claims, or just medical claims.

Dr. Sargent said none are worker's comp claims. They are coming in because they are angry, short tempered, having difficulty with sleep, anxious, irritable, and part of that comes from the work environment. He sees good and decent people he has taken care of for years get a job at that company and change.

SEN. LAIBLE asked who is invoiced.

Dr. Sargent indicated private insurance is billed and they are not worker's comp claims.

SEN. ED BUTCHER asked if the sponsor would be amenable to an amendment that there would be a thousand dollar fine for an unsubstantiated claim.

REP. GALVIN-HALCRO said she would have no problem with that as long as the fine was equal to the \$500 fine to the employer.

SEN. BUTCHER advised he called some major employers on the list and some of their employees, and not one instance was factual.

REP. GALVIN-HALCRO advised this is not information she personally collected. These were calls directed to the **Department of Labor**.

SEN. EMILY STONINGTON noted calls had come in from a broad spectrum of businesses. She will call some of those employers herself. According to the Qwest letter provided by **SEN. BOB KEENAN**, the International Brotherhood of Electrical Workers bargained with occupational employees. She asked what an occupational employee is.

REP. GALVIN-HALCRO said she can't define the term. The legislation did not come from the problems with Qwest. It came from folks in Great Falls who were having problems with employers there. It was only after the legislation came forward in 2001 and again in 2003 that those folks from Qwest let their concerns be known.

SEN. STONINGTON asked the same question of **Tom Ebzery, Qwest**.

Mr. Ebzery testified occupational employees are those in the call centers. They are affected by the agreement and are given these breaks as spelled out in the union handbook.

SEN. STONINGTON asked if she called customer care from her Qwest phone book, if she would be routed to that call center.

Mr. Ebzery believed so.

SEN. STONINGTON advised they are hearing a message that employees at the call center are not receiving breaks and another message that they are. She noted she ran a call center for mail order and is aware of what it takes to run a call center. She asked if occupational employees are those people taking the calls that are routed electronically and the ones that are reprimanded by a supervisor if they don't take the call in time.

{Tape: 1; Side: B}

Mr. Ebzery advised those employees are required to take a fifteen minute break and the definition will be provided.

SEN. TRUDY SCHMIDT asked **Dr. Sargent** if his patients talked about breaks.

Dr. Sargent stated he has a diabetic patient who is on an insulin pump. Now and then she has an unscheduled insulin reaction. They attempt to get her blood sugar down enough so she has no complications from her diabetes and try to balance her food intake. Every now and then she has to take a break to check her

blood sugar and it takes about a minute. It is a nightmare to work this out with the company. There is no way to accommodate that person with her problems. These people fear for their jobs and the push is on them to make sales when they thought they were working for customer service.

SEN. KEENAN advised he went to the Qwest call center after he heard about the sponsor's concerns. He could hardly get to the door because there were ten or twelve people outside smoking cigarettes. Given the addictive nature of tobacco, he wondered how some people could get to the bathroom in a fifteen minute break if they're out smoking.

Dr. Sargent stated of the people he works with, he can't say the percentage that smoke. He knows the percentage that have been told not to smoke.

CHAIRMAN ZOOK remarked there were no opponents present that had objected about the time problem and he found it disappointing.

Closing by Sponsor:

REP. GALVIN-HALCRO closed on the bill. She clarified that customer service calls can be routed to Seattle, Phoenix or Salt Lake City and rarely Helena. This is not a bill to do something to Qwest. She used to work there, but it was her choice to leave. They paid her for a year, her benefits for a year, and they paid for her to go back to school to get her teaching endorsement. She has no bone to pick with Qwest. The bill is just about people having a time for decency. A simple policy and procedure is all she ever asked for.

EXECUTIVE ACTION ON HB 152

Motion: **SEN. STAPLETON** moved HB015201.atp.

SEN. STAPLETON thought the 100% increase to \$25 million from \$10 million in the emergency statutory appropriation was excessive. The amendment would be for a 50% increase from \$12 million to \$18 million.

SEN. JON TESTER asked if the \$12 million has been reached in the past.

CHAIRMAN ZOOK thought it could have been in certain years. It has to be a declared emergency; not all fires are an emergency.

SEN. STAPLETON advised it was at \$10 million for several years and then at \$12 million for the last eight years. It must meet a

high standard to count as an emergency. He thought it would be more prudent to call a special session if that number is exceeded. He thought a hundred percent increase was too much discretion.

CHAIRMAN ZOOK declared it can't be used for a budget shortfall.

SEN. TESTER agreed with the amendment. He wondered if the increase was necessary and if the \$12 million is insufficient.

SEN. STAPLETON advised it has been reached. He had thought it could be left where it was.

SEN. STONINGTON recalled from the testimony there is still \$4.5 million left.

SEN. STAPLETON advised they did a lot of transfers. He thinks that's good and is what taxpayer's like to see.

SEN. STONINGTON wondered about going to \$15 million instead of \$18 million. She agreed \$25 million is too high. She asked how this is reflected in the ending fund balance.

CHAIRMAN ZOOK advised it is not reflected in the ending fund balance. It is spending authority for the Governor.

SEN. STONINGTON asked if there is an emergency and the money is spent, does it come out of the ending fund balance.

CHAIRMAN ZOOK said that is correct, and it's all general fund dollars.

Substitute Motion: **SEN. STONINGTON made a substitute motion to REDUCE THE AMOUNT TO \$16,000.**

Discussion:

SEN. BEA MCCARTHY said in 2000, the year of the big fires, they had to get some federal transfers of money. She asked if they had enough to take care of that and how long it took to get that money repaid.

Taryn Purdy, Legislative Services, recalled it was somewhere around \$65 million that the state received for payment. Some was received in 2001 and some in 2002. That was reflected in the supplemental appropriation, which was in excess of \$30 million.

CHAIRMAN ZOOK advised the historic average is \$7.5 million.

SEN. BILL TASH stated this was in the **Appropriations Subcommittee** and backfilling from FEMA is sometimes an issue; it wasn't an issue last fire season as FEMA was quicker to respond. The spending authority is necessary due to the possibility of fires due to fuel buildup.

SEN. ESP commented **SEN. STAPLETON** is a little extravagant in this case and he supports the amendment.

Vote: Motion carried unanimously.

Motion: **SEN. COONEY** moved HB 152 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. STONINGTON recalled testimony about the creation of a special revenue account so the federal reimbursements don't go into the general fund.

Ms. Purdy advised the federal government reimburses the states for any costs to the states and the account would allow the state to spend money received from the federal government.

CHAIRMAN ZOOK clarified in the past the money has gone to the general fund and the **Department of Natural Resources** has no way to recover it.

SEN. STONINGTON contended that is a good part of the bill.

SEN. ROYAL JOHNSON asked about line 1 of the fiscal note and striking the **Department of Military Affairs**. He thought it should be changed before it gets to the floor.

SEN. JOE TROPILA indicated it is there because of emergency situations due to 9/11. **GENERAL JOHN PRENDERGAST, Department of Military Affairs**, was asked to run the emergency operation in the Governor's office.

SEN. JOHNSON contended they are not designating who runs the operation, they are sending it to the department that normally handles emergency funds and they can hire anybody they want.

SEN. LINDA NELSON asked if they would ask for an amended fiscal note.

SEN. JOHNSON indicated **Jane Hamman, Office of Budget and Program Planning**, suggested she would do that. He wanted to make sure its done.

CHAIRMAN ZOOK said there needs to be a change in the bill to do that. The fiscal note can't do something that isn't in the bill.

SEN. STONINGTON recalled that **Ms. Hamman** said #1 was in error and she would extract that from the fiscal note. It wasn't in the bill.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON HB 42

Motion: **SEN. STONINGTON** moved HB004201.ak1.

SEN. STONINGTON advised she wanted to segregate #3. The bill was brought by **REP. DEBBY BARRETT** and requires the **Department of Fish, Wildlife and Parks** to manage game populations at sustainable levels. There is a date by which the department has to comply. She supported the goal of managing wildlife populations. **SEN. TASH's** bill passed, which allowed issuing tags to handle increased game populations. This bill is a more mandatory management directive. The bill takes the caps off non-resident license issuance for B-10 combination licenses for elk and B-11 deer licenses. The bill allows the commission to issue as many licenses as they want. The combination licenses for bull elk and buck deer are the most prized of the licenses the department issues. She asked **REP. JOE BALLYEAT, REP. LARRY JENT,** and **REP. EDITH CLARK,** all of whom are in **House Fish and Game,** whether the issue of taking off the caps of non-resident licenses was debated on the House side and they said they didn't even know it was in the bill. The debate in the House focused on the amendments that were placed on the bill on page 2 for the department to aim for stable populations on all lands, not just public land. It is a huge issue in the state and for it to have passed out of the House with no debate is not what they should be doing legislatively. The first set of amendments would take out the ability of the commission to authorize additional B-10 and B-11 licenses.

CHAIRMAN ZOOK asked why she thought it was just for non-residents. He thought it talks about the license numbers that can be allocated.

SEN. STONINGTON contended in the title it includes resident and non-resident, but in the bill on page 7 it says "subject to the management provisions provided in Section 1-5" and "these are non-resident B-10 and B-11 licenses that are sold at a variable price to reflect market." On lines 10 and 11 it says "or more if additional licenses are authorized" pursuant to these management goals. She felt that takes the cap off.

CHAIRMAN ZOOK thought line 11 says re-allocated.

SEN. STONINGTON advised the variable price is a fluctuating number based on market price but they can't allocate more than their goal of 5500.

SEN. ESP thought it read that if licenses are unsold, they can re-allocate more than this.

{Tape: 2; Side: A}

SEN. STONINGTON explained line 9 on page 11 authorizes the commission and the department to give more than one B-10 and B-11 licenses to one person. That in itself may not be an issue but on page 15, lines 20-21, the drafter felt the clause "subject to the management provisions provided in Section 1 through 5" implied the ability to authorize more licenses. When she discussed it with the drafters, they felt the wording on line 20, page 14, the B-10 combination license, also implied the authority to issue additional licenses. **Crystal Lee, Legislative Services**, said her instructions from **REP. BARRETT** were to take the lid off and authorize the commission to issue all the licenses they needed to fulfill this mandate.

CHAIRMAN ZOOK advised if you take the lid off, that would be for both residents and non-residents.

SEN. STONINGTON stated her only concern was with non-resident licenses because it is such a contentious issue for hunters in the state.

CHAIRMAN ZOOK thought if the commission has the authority to manage the game in the state, he wondered why the legislature was managing it for them.

SEN. KEITH BALES reasoned that every one of those licenses were subject to the rules and the authority given in Sections 1-5. He couldn't picture the commission issuing a bunch of non-resident licenses unless they could not find sufficient residents to take care of the necessary management. He thought that was probably why that was put in. The commission is being required to manage the wildlife to keep the numbers within their parameters. If there are not sufficient residents applying for those licenses, how would they do that if they did not have the ability to authorize more non-resident licenses. He thought there should be a priority system.

SEN. NELSON advised a couple of years ago there was an ice storm in her area, the ground was crusted over, there was an abundance

of deer and they were getting into all the haystacks. She appealed to the commission for a special hunt and it was authorized. There was no way in-state people would harvest all of those deer. Non-resident hunters from North Dakota were given a special price to hunt.

SEN. TESTER advised he could see both points. He thought there should be a priority list. The legislative intent should be the people of the state of Montana should be given first opportunity. In special circumstances like **SEN. NELSON** had, they should be given latitude for that also.

SEN. STONINGTON said she is very sympathetic with what **SEN. NELSON** was saying. The department has the authority, currently, to handle a special hunt and give those licenses to non-residents and for the most part she guessed those were probably for does, not bucks. The B-10 license is the big game combination elk license for non-residents who want to hunt a trophy bull. Non-resident hunters are paying the big prices for the B-10 license and the B-11 license and are hunting trophy bulls and trophy bucks. **SEN. TASH'S** bill expands the authority that **SEN. NELSON** talked about and the authority to hunt cow elk in areas like the Beaverhead where more management is necessary to handle overpopulation. The issue is giving authority to the commission to grant more non-resident trophy bull and trophy deer licenses, an issue that was not debated in the House and is highly contentious in the state. Resident hunters do not have to compete with non-resident hunters for the big trophy elk. To do this in a bill with no discussion on this issue is inappropriate and the reason for the amendment. She agreed with trying to manage for sustainable populations, game damage hunts, and more latitude to manage for those things but this is not the way to do it.

SEN. TROPILA advised he spoke to **Jeff Hagener, Department of Fish, Wildlife and Parks**, who supports the amendments.

SEN. BALES commented the B-10 and B-11 can be an either sex license. That is controlled by rules adopted by the department. On elk permits, much of the area is antlered bull only. Last season, the elk season in the area by Custer National Forest was opened up for either sex hunting. It allowed people with a general license to take either a cow or a bull. Through rules, the department has the authority to do that. He supported placing some kind of priority in Sections 1-5 that gives first priority to residents.

SEN. TASH advised all of these are necessary because of prevailing conditions and what the habitat can support. The

department needs every tool available. The department opposed this bill in the House, and they testified as informational witnesses in the Senate, because amendments had mitigated their concerns, particularly the amendment that specified "all lands". There needs to be a mix of hunters in order to have a successful harvest. He questioned the need for the amendment.

SEN. BUTCHER advised he is concerned with the amendment because it tends to move away from the direction to manage. It needs to be open for the department to use whatever means they need to. He was not too concerned about the out-of-state hunters being given all the permits because the **Fish and Game Commission** is under pretty heavy influence from sportsmen's groups in the state. In-state hunters will get first shot at the licenses. He saw no reason not to leave it at the discretion of the department.

SEN. LAIBLE said the bill, as its drafted, is to give the agency some authority to manage the game. **Director Hagener** stated in a letter that they are already doing much of what **HB 42** as amended calls on them to do. The planning process called for would require additional effort and expense for deer and antelope. For elk they are already updating their management plan with extensive involvement of landowners and the public at large. The major change from existing law or practice reflected in **HB 42** as amended, is this bill will statutorily appropriate funding for elk, deer, and antelope management and game damage. This will give them greater flexibility to implement these programs. As director he would still have to balance these expenditures against the need to manage the department's general license account balance. They do not believe there are significant new requirements in **HB 42** as amended, but the bill will give the agency great flexibility with reduced legislative oversight. If the amendment passes, they are being told how to do their job and the agency thinks their job is pretty clear. He didn't know if the legislature should micro-manage what they do with their animals.

SEN. TESTER advised he is not a hunter but he lives with a lot of hunters and there are a lot of hunters in Big Sandy, Montana, who try to get elk permits, but can't. He thought those people should be entitled before someone from out of state and that's what the amendment does. He contended there are bills all the time to micro-manage **FWP**.

SEN. JOHNSON supported the amendment to take care of the people in the state before the people outside of the state. This offers some people who want an opportunity to hunt a chance to do that.

SEN. BARKUS advised he is a former Fish and Game Commissioner and can attest to the sensitivity to the caps on non-resident big game licenses, especially the B-10 combination licenses. The sportsmen of Montana are extremely sensitive to that issue and he said he would support the amendment. He asked if **SEN. STONINGTON** had talked to the sponsor of the bill.

SEN. STONINGTON said she had not and apologized for that.

SEN. ESP said he would resist the amendment. He thought they should think about it for a few days. It deserves a lot of thought as the amendments would take a lot of sections out of the bill.

SEN. STONINGTON said she would be happy to withdraw her amendment and defer the discussion. She urged everyone to talk to their constituents about the issue of the cap. She was not talking about a cap on antler-less tags; she approved of what **SEN. TASH** did in opening up management for antler-less tags for game management purposes. The B-10 and B-11 combos are the most prized non-resident tags. She appreciated the comments of **SEN. BARKUS** and said she would talk to the sponsor.

SEN. STONINGTON withdrew her amendment. She said hunting is the great heritage of the state and they want to be careful about what they do. She thought the House deserves a chance to discuss this. The bill provides for the department to do all of this and never talk to the legislature about it. It provides for them to funnel money through a statutory appropriation without legislative discussion through the budgeting process. By the year 2009, the department will have set sustainable numbers and accomplished them. She thought regardless if there is an easy winter or a harsh winter or if a new landowner comes in and shuts off his land to hunting, they must meet their goal and she thought a drop dead date is unmanageable.

EXECUTIVE ACTION ON HB 158

Motion: **SEN. LAIBLE** moved that HB 158 BE CONCURRED IN.

Discussion:

Ms. Purdy explained this gives \$100,000 to **DPHHS** so that if a tribe becomes eligible for its own TANF program they will be able to provide \$100,000 as the law currently allows.

{Tape: 2; Side: B}

SEN. BARKUS advised the bill is unnecessary. If a tribe comes in there would be time to appropriate the dollars, but in theory

they could have a \$500,000 appropriation if all five tribes came in.

Substitute Motion: SEN. STAPLETON made a substitute motion that HB 158 BE INDEFINITELY POSTPONED.

SEN. STONINGTON opposed the motion. In the past the \$100,000 served as an incentive because the state benefits. It is a huge part of the TANF population and that is why the incentive was originally put into place. In these hard economic times, they don't need the \$200,000 showing up against the ending fund balance. If a tribe comes in, it could be dealt with in the next session, but she was going to vote against the amendment.

SEN. MCCARTHY said there is the possibility of coming into the next session with \$200,000 per tribe if they decided to take advantage of this. They would draw it directly from the general fund and there could be a \$1 million impact.

Ms. Purdy stated the incentive exists in the way the current law is currently written. If the tribe takes advantage of that incentive, the department would have to find \$100,000 a year to pay that tribe. The bill would provide a specific appropriation and the department would not have to find it.

CHAIRMAN ZOOK asked if it could be done in HB 2 with just authority.

Ms. Purdy advised it could be in HB 2 or in this bill.

SEN. MCCARTHY asked if they need another amendment to put the spending authority in HB 2.

CHAIRMAN ZOOK advised usually it says in the fiscal note that it has to be included in HB 2. The appropriation is in the bill.

Vote: Motion carried 16-3 with COONEY, STONINGTON, and TROPILA voting no.

EXECUTIVE ACTION ON HB 679

Motion: SEN. STONINGTON moved that HB 679 BE CONCURRED IN.

SEN. STAPLETON advised working in this field, he finds the bill troubling. If the bill becomes law, lobbyists and their associations would have a better mechanism and a safer territory for health insurance. The consequence is small group health plans may be hurt when freedom of information is disallowed. The bill increases a competitive advantage by disallowing information

to be given which is currently able to be given. He disliked that the bill wrongly assumes small business owners would make irrational or bad decisions if they had information. He thought small business owners should have the information and make those choices.

Vote: Motion failed 1-17 with SEN. COONEY voting aye.

Motion/Vote: SEN. STAPLETON moved that HB 679 BE INDEFINITELY POSTPONED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 272

Motion: SEN. ESP moved that HB 272 BE CONCURRED IN.

Discussion:

SEN. JOHNSON said he had some problems with this situation and had for a long time. This is the one where they had the discussion about the \$96,000 check. He thought it is incorrect to do what they are trying to do and the state would not be able to take money the counties owe out of the entitlement share. He didn't understand why one governmental entity would say if they owe money it can't be taken out of money they will be paid.

CHAIRMAN ZOOK advised the federal government doesn't even wait. If you have an FHA loan and get a government payment for some purpose, they have it first.

SEN. JOHNSON understood how the government might do that in the particular instance just talked about, but didn't think it is the same situation.

CHAIRMAN ZOOK thought it removes the state leverage.

SEN. STONINGTON recalled there are other avenues for the state to recoup its receivables. This bill deals with the entitlement share which has the counties giving up control over their own taxes in order for the state to collect those taxes and reimburse the counties their share, and already the state is intruding on that agreement. She felt they made an agreement with the counties about the entitlement share and are already starting to break it.

SEN. JOHNSON remembered the \$200,000 that Bozeman was shorted in **HB 124**. The \$200,000 was paid immediately upon request. The department had been as attentive as they can and he thought it ought to be the same the other way. The situation here was a \$96,000 check that has been in one of the commissioner's

briefcase for about three months. The commissioner wanted the bill to go through and then he might give up the \$96,000.

Substitute Motion/Vote: SEN. JOHNSON made a substitute motion that HB 272 BE INDEFINITELY POSTPONED. Substitute motion carried 16-3 with COONEY, SCHMIDT, and STONINGTON voting no.

EXECUTIVE ACTION ON HB 597

Discussion:

SEN. DEBBIE SHEA recalled the discussion when the bill was heard about a concern with a crisis or emergency and who would make that determination. Her amendments say the bill does not apply in cases of emergency and if the owner, agent or appointee of the owner say it is an emergency, no one has the authority to say any different.

SEN. MCCARTHY advised it was the issue about flying a repairman to Northeastern Montana from Billings if someone was stuck in an elevator. This way, it could be handled locally.

SEN. SHEA noted it would not just be somebody stuck in an elevator, but could be a problem with a freight elevator.

SEN. ESP questioned the need for regulation; the need was unclear. The proponents talked about nationwide statistics over eight or nine years and most deaths were in construction accidents. He noted they don't regulate carpenters or hog carriers. An apprenticeship program is in place and he saw that as adequate.

CHAIRMAN ZOOK recalled there would be a grandfather clause.

Jerry Driscoll advised that anyone in business today gets an endorsement. The bill is for new people. He advised this is not really a union bill, it is for insurance companies. Insurance companies don't want lawsuits. Elevators are supposed to automatically go to the basement if there's a fire. There is a mechanism that does it automatically when the fire alarm goes off. If it doesn't go to the basement automatically and falls all the way to the bottom, there is a lot of insurance costs. From the concerns he heard, the amendments of **SEN. SHEA** would alleviate most of them. In an emergency, a custodian can get an elevator unstuck until a mechanic can figure out why it happened and fix that part.

CHAIRMAN ZOOK suggested **SEN. SHEA** have her amendments drafted and the committee would deal with it another day.

SEN. MIKE COONEY asked about a potential amendment on grand fathering.

CHAIRMAN ZOOK thought three years was mentioned. If you worked for three years, you would be eligible to take the test.

SEN. LAIBLE expressed concern about grand-fathering anybody in that isn't licensed. He thought most work done on elevators is electrical repair--either the power or a fuse has gone out. Those people will be excluded from working on elevators.

EXECUTIVE ACTION ON HB 359

Motion: **SEN. TROPILA** moved HB 359 BE CONCURRED IN.

SEN. TROPILA distributed amendment **HB035903.atp** and explained it would amend the bill for a rest period of ten minutes or less in a four hour period. The rest are technical amendments

Motion: **SEN. TROPILA** moved **HB035902.atp**.

SEN. BUTCHER asked if the amendment says they can give a one minute break.

SEN. TROPILA advised whatever they need to go to the bathroom and relieve themselves.

SEN. BARKUS stated the unintended consequences were brought up vividly by the good doctor who testified earlier. If this is mandated in the workplace, breaks will be mandatory at a certain time. He felt this sort of thing is ridiculous in the state of Montana. There is a good workforce and they don't need this kind of a solution.

SEN. TROPILA advised they need the amendment.

SEN. STAPLETON stated one of the unintended consequences is ten minutes or less can be zero. Then it is just back to current law, so they might as well kill the bill.

SEN. BALES advised the major company causing the problem had a bona fide union contract that specified a 15 minute break. In essence that contract took away the flexibility that maybe could have been afforded those employees if they had not had that contract. He feared putting this law in place would take away employers being able to give their employees flexibility. He suggested their contract should have had flexibility rather than a fifteen minute break at a specific time. He thought that more

of a problem than being silent. He thought the bill would create more problems. He didn't think the amendments help a bad bill.

Vote: Motion carried 16-2 with BALES and ESP voting no.

{Tape: 3; Side: A}

Motion/Vote: SEN. COONEY moved HB035901.AEN . Motion carried unanimously.

Motion: SEN. NELSON moved HB 03502.atp.

SEN. NELSON explained it adds consideration of individual business policies that provide reasonable restroom breaks.

Vote: Motion carried unanimously.

Motion: SEN. BUTCHER moved that HB 359 BE INDEFINITELY POSTPONED.

SEN. BUTCHER commented he received a callback from a businessman in Billings. An anonymous call came into the department saying there were no breaks and no lunch. The true story is these guys break between every truck wash. When the boss discussed a rigid fifteen minute break with the employees, they thought it was a joke. The disgruntled employee who filed the complaint is now in Deer Lodge. The employer hires employees out of pre-release, and this individual violated his probation. He was not able to find an employer on the list that actually did not allow breaks. With a bill like this in place, anonymous reports will trigger an investigation by the department. That is an expense to the state and harassment of the businessman. He thought it was a bad bill.

SEN. STAPLETON remarked about trying to work with collective bargaining and stated support for the motion.

CHAIRMAN ZOOK acknowledged there were some abusive employers but didn't think it is a good thing to put in statute.

SEN. SHEA commented when anyone comes in with a bill they are entitled to respect and courtesy even if we are not in favor of the bill.

Vote: Motion carried 12-7 with COONEY, MCCARTHY, NELSON, SHEA, STONINGTON, TESTER, and TROPILA voting no.

ADJOURNMENT

Adjournment: 10:30 A.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT (fcs52aad)